

Understanding exempt development

Check planning controls first

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

The majority of the development that can be done as exempt or complying development in NSW is identified in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the policy). View the policy at the [Exempt and complying development policy web page](#).

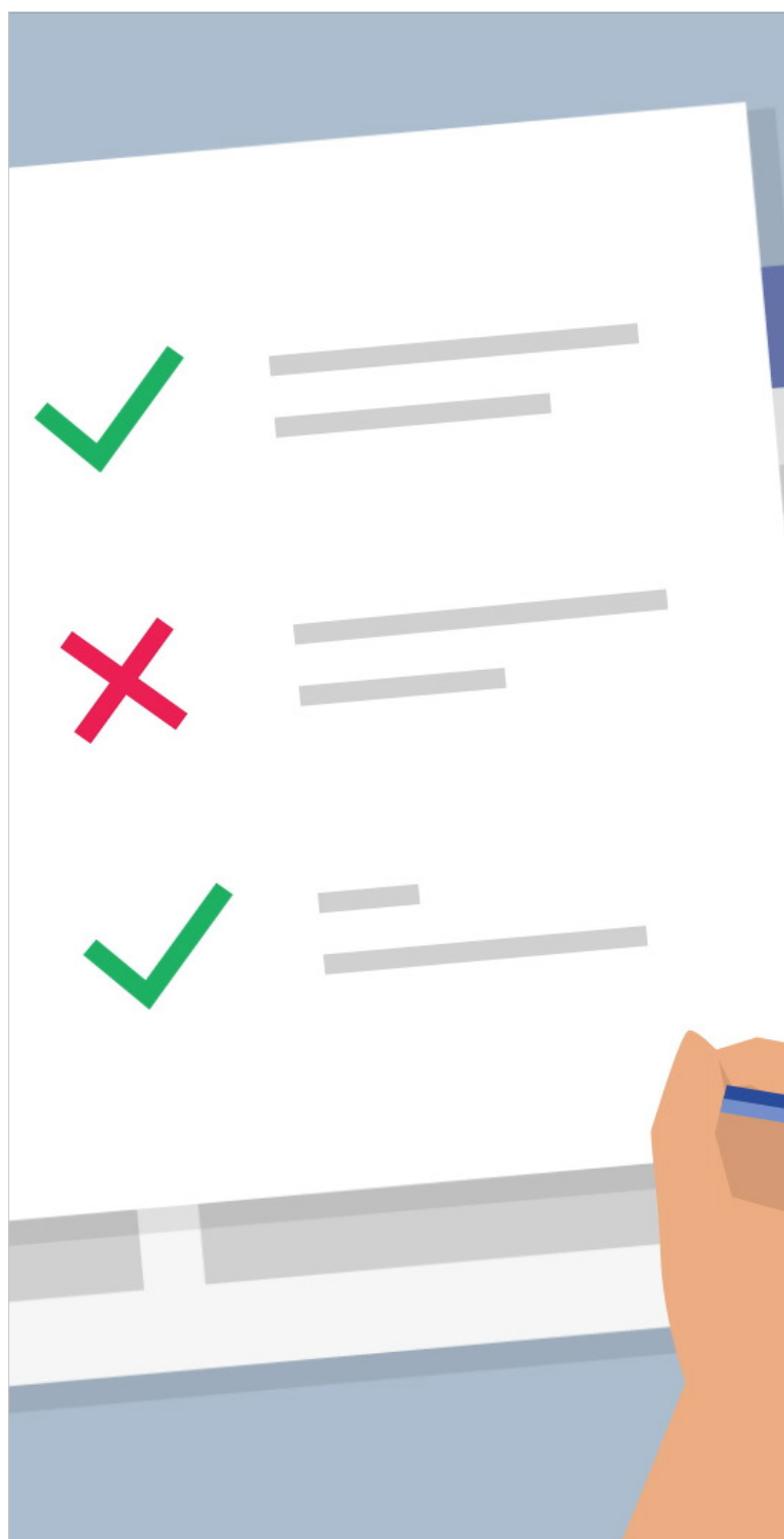
What 'exempt development' means

Many types of home renovations and minor building projects do not 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 policy), no planning or building approval is needed.

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

Several fact sheets are available on the [Planning Portal](#). They give general information about different types of exempt development.



Exempt development criteria

[Redacted text]



[Redacted text]

Exempt development

The types of projects that are classed as exempt development

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

The exempt and complying development policy divides exempt development into 3 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 you will know if your 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. 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
- Managing noise levels.

If your project doesn't meet all of the development standards for the particular exempt development type, you will need approval for the project.

What you should know about exempt development

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

- Declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016* or declared critical habitat under Part 7A of the *Fisheries Management Act 1994*
- Wilderness area under the *Wilderness Act 1987*
- State heritage item listed on the State Heritage Register (SHR), or an interim heritage item under the *Heritage Act 1977*.

If the heritage designation applies to only part of the lot, you may be able to carry out exempt development on the part of the land that is 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 effects 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 your 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 happen without the risk of any negative effects.
- 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](#). 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).

Some tips for using the exempt development policy

- The policy includes definitions for many of the specific terms it uses for exempt development. 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 Local Environmental Plan](#).
- The provisions of the statewide 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 must contribute equally to the cost of maintaining a sufficient dividing fence.
 - Covenants and legal agreements that apply to the land still apply (if the instrument has been imposed or required by a local council, another environmental planning instrument, owner or former owner of the land).

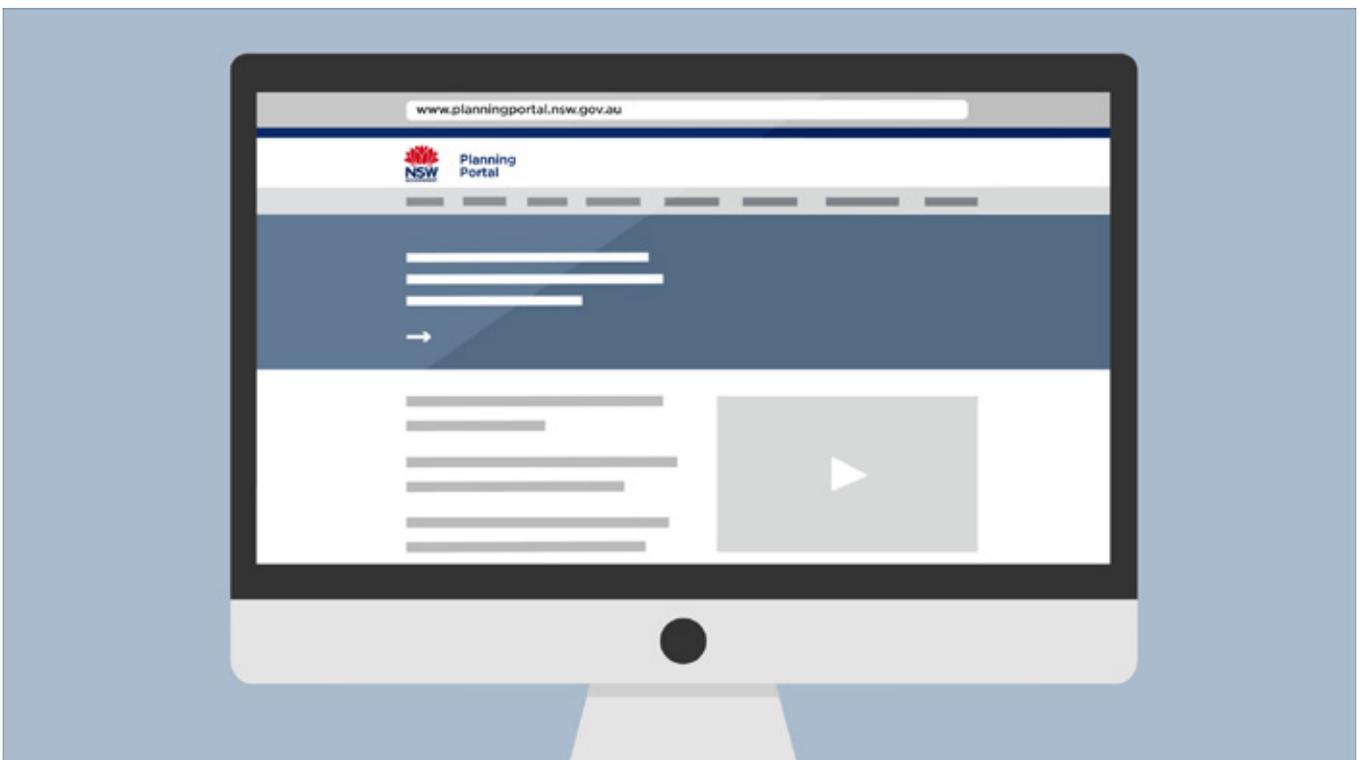


Other approvals that you may need

Before undertaking some types of exempt development, you may need to get a separate approval or licence from the local council or utility 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.
- Building of any kerb, crossover or driveway and other work over a public road or footway will require an approval from the relevant road's 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*.
- Before removing or pruning a tree or other vegetation, contact your local council first to check the requirements of council's tree preservation policy.
- If the development is close to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, you should contact the relevant infrastructure authority before beginning the development. This applies to development located both within and beyond easements.



More information

To find out more, visit the [Exempt and complying development web page](#) or call the department's Codes Team on 02 8289 6600 or email codes@planning.nsw.gov.au.

© State of New South Wales through Department of Planning and Environment 2022.
The information contained in this publication is based on knowledge and understanding at the time of writing (January 2022). However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.