

Advisory Notes for Exempt Development

About these Notes

These are advisory notes for the carrying out of Exempt Development.

These are advisory notes only and set out general requirements of a person carrying out Exempt Development under Section 76(2) of the Environmental Planning and Assessment Act 1979.

Purpose of document

These Advisory notes set out the expectations and restrictions for a person undertaking Exempt Development.

Note 1 – Exempt Development at Sydney Olympic Park Authority

What are YOU responsible for in relation to Exempt Development?

Exempt Development is development that does not require development consent. You should be familiar with the requirement or otherwise for development that does require consent under the *Environmental Planning and Assessment Act 1979* (EP&A Act). If you are unsure about requiring development consent, contact a Planning Officer of the Sydney Olympic Park Authority or engage a relevant Planning professional to assist you.

If development consent is not required, as the proponent of a development, it is your responsibility to ensure the carrying of Exempt Development is done so in accordance with the criteria and restrictions of Exempt Development under the EP&A Act.

There are obligations and procedures that a proponent of exempt development must fulfil and respect in order to carry out Exempt Development and you should be familiar with the basic obligations and development standards of Exempt Development if intending to carry out a development that does not require development consent.

What is SOPA responsible for in regard to Exempt Development?

As your relevant Consent Authority, the Sydney Olympic Park Authority may:

- Advise if your development could be potentially Exempt Development in accordance with the EP&A Act;
- Undertake an audit or compliance check of the Exempt Development;
- Appropriately liaise with the Applicant in relation to any matters that arise during the carrying out of Exempt Development; and
- If necessary, impose fines, issue an Order or undertake legal action if the Authority is not satisfied that the development is Exempt Development and consent is required.

Note 2 – What do I need to do to ensure development is Exempt Development?

All exempt development types have restrictions in location, size, types, uses and minimum construction standards. It is your responsibility to ensure that Exempt Development satisfactorily meets such restrictions. To this end, the onus is on you to ensure:

- (If required), the development has obtained land owner's consent;
- The development is legally classified as Exempt Development;
- The development has been designed and built in accordance with relevant building regulations and codes and any other criteria that applies to Exempt Development; and
- All relevant approvals under NSW and Commonwealth environmental legislation has been identified and if necessary, obtained.

Should development not be legally defined as Exempt Development or cannot be built in accordance with relevant building regulations, codes or criteria, you must either redesign the development to meet such building standards, codes or criteria, or, obtain a development consent.

Note 3 – What happens if the development is categorised as Exempt but is not constructed in accordance with the Exempt Development criteria?

Undertaking a development that would be categorised as exempt but is not constructed in accordance with relevant criteria, means your development does not meet the minimum legislative building standards and codes that govern construction in Australia and NSW and is therefore not legally Exempt Development. In such cases the Authority may:

- Issue a Stop Work Notice until the matter is satisfactorily resolved;
- Request a development consent;
- Issue an order, such as a rectification order or demolition order;
- Issue fines;
- In serious breaches, take the matter to the NSW Land and Environment Court.

Note 4 – What happens if the development is not categorised as Exempt Development but is nevertheless constructed without consent?

Undertaking a development that is not categorised as Exempt Development but is nevertheless constructed without obtaining a consent means your development is not legally valid. In such cases the Authority may:

- Issue a Stop Work Notice until the matter is satisfactorily resolved;
- Request a development consent;
- Issue an order, such as a demolition order;
- Issue fines;
- In serious breaches, take the matter to the NSW Land and Environment Court.