

# Port Stephens Council – Exempt Development Guide

## The purpose of this guide

The purpose of this document is to provide a simple guide to exempt development and encourage its use in Port Stephens. It combines the local and state provisions for exempt development in the one document.

## What is exempt development?

Exempt development is development that does not require approval. The types of exempt development, including location and design requirements, are attached to this Guide.

The development must not contravene any condition of a development consent already applying to the land. Also, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licenses, permits and authorities still apply.

## What if my development does not meet the requirements to be exempt development?

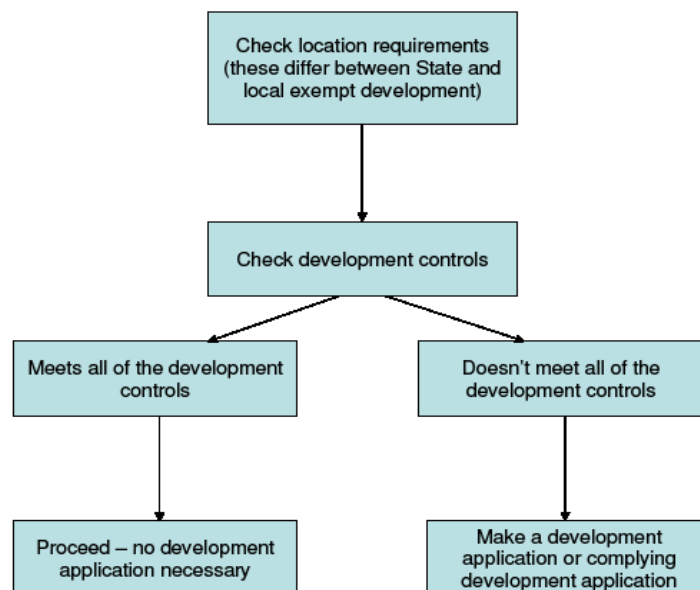
If your development does not meet ALL of the requirements for exempt development, you will need to lodge a development application.

Some types of development can also be approved as complying development and get a quick approval – within 10 working days. Complying development can include single storey houses, alterations and additions, fit outs to shops and commercial premises, carports, garages, swimming pools and some types of subdivision. Refer to the separate *Complying Development Guide* for further information.

## What forms do I need to fill out for exempt development?

There is no need to fill out a form for exempt development. Simply use the checklist in this guide to see if the development is exempt.

**Exempt Development Flow Chart**



## Location Requirements for State exempt development

Requirements for State exempt development	Complies
Must meet the relevant deemed-to-satisfy provisions of the <i>Building Code of Australia</i> , or if those provisions do not apply, must be structurally adequate	
Must not, if it relates to an existing building, cause the building to contravene the <i>Building Code of Australia</i>	
Must not be designated development	
Must not be carried out on land that comprises, or on which there is, an item listed on the State Heritage Register under the <i>Heritage Act 1977</i> or that is subject to an interim heritage order under the <i>Heritage Act 1977</i>	
Development that relates to an existing building that is classified under the Building Code of Australia as class 1b or class 2-9 is exempt development only if: <ul style="list-style-type: none"> <li>▪ The buildings has a current fire safety certificate or fire safety statement or</li> <li>▪ No fire safety measures are currently implemented, required or proposed for the building</li> </ul>	
Be installed in accordance with the manufacturer's specifications, if applicable	
Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent (you can apply for tree removal under Council's <i>Tree Preservation Order</i> separately – contact Environment Services Section)	
Must not be carried out on land that is an environmentally sensitive area: <ul style="list-style-type: none"> <li>▪ The coastal waters of the State</li> <li>▪ A coastal lake</li> <li>▪ Land to which <i>State Environmental Planning Policy 14 Coastal Wetlands</i> or <i>State Environmental Planning Policy 26 Littoral Rainforests</i> applies or within 100m of</li> <li>▪ Land reserved as an aquatic reserve under the <i>Fisheries Management Act 1994</i> or as a marine park under the <i>Marine Parks Act 1997</i> or within 100m of</li> <li>▪ Land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a world heritage area declared under the World Heritage Convention or within 100m of</li> <li>▪ Land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance</li> <li>▪ Land reserved under the <i>National Parks and Wildlife Act 1974</i> of land to which part 11 of that Act applies</li> <li>▪ Land reserved or dedicated under the <i>Crown Lands Act 1989</i> for the preservation of flora, fauna, geological formations or for other environmental protection purposes</li> <li>▪ Land identified as being critical habitat under the <i>Threatened Species Conservation Act 1995</i> or Part 7A of the <i>Fisheries Management Act 1994</i>.</li> </ul>	

## Location requirements for Local exempt development

Location requirements for Local exempt development	Complies
Must meet the relevant deemed-to-satisfy provisions of the <i>Building Code of Australia</i>	
Must not, if it relates to an existing building, cause the building to contravene the <i>Building Code of Australia</i>	
Must be more than 1 metre from any easement or public sewer main	
If it relates to an existing building that is classified under the Building Code of Australia as class 1b or class 2-9, have a current fire safety certificate or fire safety statement or be a building for which no fire safety measures are currently implemented, required, or proposed	
Must not require a tree to be removed (you can apply for tree removal under Council's <i>Tree Preservation Order</i> separately – contact Environment Services Section)	
Must not create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot ash, dust, waste water, grit or oil	
Must not be designated development	
Must not be development on land that comprises, or on which there is, an item that is listed on the State Heritage Register or subject to an interim heritage order under the <i>Heritage Act 1977</i> or listed as a State Item in the <i>Port Stephens Local Environmental Plan 2000</i> .	
<p>Must not be on or in an environmentally sensitive area of State significance:</p> <ul style="list-style-type: none"> <li>▪ The coastal waters of the State</li> <li>▪ A coastal lake</li> <li>▪ Land to which <i>State Environmental Planning Policy 14 Coastal Wetlands</i> or <i>State Environmental Planning Policy 26 Littoral Rainforests</i> applies or within 100m of</li> <li>▪ Land reserved as an aquatic reserve under the <i>Fisheries Management Act 1994</i> or as a marine park under the <i>Marine Parks Act 1997</i> or within 100m of</li> <li>▪ Land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a world heritage area declared under the World Heritage Convention or within 100m of</li> <li>▪ Land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance</li> <li>▪ Land reserved under the <i>National Parks and Wildlife Act 1974</i> of land to which part 11 of that Act applies</li> <li>▪ Land, places, buildings or structures listed on the State Heritage Register</li> <li>▪ Land reserved or dedicated under the <i>Crown Lands Act 1989</i> for the preservation of flora, fauna, geological formations or for other environmental protection purposes</li> <li>▪ Land identified as being critical habitat under the <i>Threatened Species Conservation Act 1995</i> or Part 7A of the <i>Fisheries Management Act 1994</i>.</li> </ul>	

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In each of the development types either the state or local location requirements are to be seen in the previous pages.

Type of development	Controls	Complies
Access ramps <b>State</b>	Must not be more than 1m above ground level (existing)	
	Must be constructed in accordance with <i>AS 1428.1-2001 Design for access and mobility – General requirements for access – New building work</i>	
	Must not interfere with the functioning of existing drainage fixtures or the natural surface flow of water	
	If it is located on bushfire prone land, must be constructed of non-combustible material	
	If it is constructed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or draft heritage conservation area, must be located in the rear yard	
Advertising sign – Business identification sign <b>Local</b>	Maximum of 1 business identification sign indicating the approved use of the land	
	Maximum 1.2m length and 0.6m height	
	Must be fixed to the wall of the building, the front fence of the property, or on a pole with a maximum height of 1.5m above ground	
	Must be located within the property boundary	
Advertising sign – Directory board for industrial units <b>Local</b>	Maximum 1.5m length and 1.5m height	
	Must be fixed to the wall of the building, the front fence of the property, or on a pole with the top of the sign to be no more than 2.5m above the ground	
Advertising sign – Fascia sign <b>Local</b>	Must be land zoned 3(a) Business only	
	Must be attached to the fascia or return end of an awning	
	Must not project above or below the fascia	
	Must not extend more than 300mm from the fascia	
	Must not be internally illuminated	
Advertising sign – Flush wall sign <b>Local</b>	Must be on land zoned 3(a) Business or 4(a) Industrial only	
	Must be attached flush to the wall	
	Must not protrude more than 200mm from the wall	
	Maximum 2.5m <sup>2</sup> in area	
	Must be securely fixed to the wall	
	Must not cover mechanical ventilation vents	

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Advertising sign – Sporting field fences and scoreboards <b>Local</b>	Maximum 5m length and 0.9m height	
	Must face the sporting fields	
	Must be attached to existing fence or scoreboards	
	If on a reserve, must be in accordance with any plan of management adopted by Council for the reserve	
Aerials and antennae <b>State</b>	Must not be installed on or in, or in relation to, a heritage item or a draft heritage item.	
	Must be for domestic purposes only	
	Must be located at least 900mm from each lot boundary	
	If it is roof mounted – must not be higher than 1.8m above the highest point of the roof	
	If it is not roof mounted: <ul style="list-style-type: none"> <li>▪ Must not be higher than 1.8m above the highest point of the roof of the dwelling on the lot and</li> <li>▪ if it is not located in a rural type zone, must be located in the rear yard</li> </ul>	
	Not more than 1 per dwelling	
Air conditioning units <b>State</b>	Must be for domestic purposes only	
	Must be located at least 450mm from each lot boundary	
	Must not be higher than 1.8m above ground level (existing)	
	Must not involve building work that reduces the structural integrity of the building	
	Must be attached to the external wall of a building or ground mounted	
	Must not reduce the existing fire resistance level of a wall	
	If it is constructed or installed on or in, or in relation to, a heritage item or a draft heritage item – must not be wall mounted	
	If it is constructed or installed in a heritage conservation area – must be located in the rear yard	
	Any opening created by the construction or installation of the development must be adequately waterproofed	

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Automatic Teller Machines <b>Local</b>	Must be attached to the wall of a building	
	Must be wholly enclosed in an arcade or shopping centre or if facing a public footpath or street is set back 1m from the road reserve unless it is perpendicular to the street	
	Allowance must be made for queuing so as not to hinder the free movement of pedestrians	
	Must comply with <i>AS 1428.1-2001 Design for access and mobility – Part 1 General requirements for access – New building work</i>	
	Must be appropriately lit with satisfactory surveillance	
	Must include a bin with adequate capacity to discourage littering	
Aviaries <b>State</b>	Must be for domestic purposes only	
	Must not be constructed or installed on land in a foreshore area	
	Must not have a floor area of more than 10m <sup>2</sup>	
	Must not be not higher than 2.4m above ground level (existing)	
	If it is not located on land in the 1(a) Rural Agriculture zone – must be located in the rear yard	
	Must be located at least 1m from any registered easement, sewer main or water main	
	Must have an impervious floor	
	Must be constructed or installed so that roof water is disposed of without causing a nuisance to adjoining owners	
	If it is located on bushfire prone land and is less than 5m from a dwelling – must be constructed of non-combustible material	
	Not more than 2 per lot.	
Awnings, blinds and canopies <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or draft heritage item	
	Must not have an area more than 10m <sup>2</sup>	
	Must not project beyond the external wall of the building by more than 2m	
	If it is connected to a fascia – must be connected in accordance with a professional engineer's specifications	
	If it is located on bushfire prone land – must be constructed of non-combustible material	

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<p>Balconies, decks, patios, pergolas, terraces and verandahs</p> <p><b>State</b></p>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or on land in a foreshore area	
	Must be free standing or attached to the ground floor level of a building and roofed or unroofed	
	Must be for domestic purposes only	
	Must have an area of not more than 20m <sup>2</sup>	
	Must not cause the total floor area of all such structures on the lot to be more than 15% of the ground floor area of the dwelling on the lot	
	Must not have an enclosing wall higher than 1.4m	
	Must be located behind the building line of any road frontage	
	Must be located at least 900mm from each lot boundary	
	Must be located at least 1m from any registered easement, sewer main or water main	
	To the extent it is comprised of metal components, must be constructed of low reflective, factory pre-coloured materials	
	Must have a floor height not more than 1m above ground level (existing)	
	If it is a roofed structure that is attached to a dwelling – must not extend above the roof gutter line of the dwelling	
	If it is a roofed structure that is not attached to a dwelling – must have a roof not higher than 3m, at its highest point, above ground level (existing)	
	If it is connected to a fascia – must be connected in accordance with a professional engineers specifications	
	Must be connected constructed or installed so that any roof water is disposed of into an existing stormwater drainage system	
	Must not interfere with the functioning of existing drainage fixtures or flow paths	
If it is located on bushfire prone land and is less than 5m from a dwelling – must be constructed of non-combustible material		
If it is constructed or installed in a heritage conservation area or a draft heritage conservation area – must be located in the rear yard		

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<b>Barbeques</b> <b>State</b>	Must not have an area of more than 4m <sup>2</sup>	
	Must not be higher than 1.8m above ground level (existing)	
	If it is not on land in the 1(a) Rural Agriculture zone – must be located behind the building line of any road frontage	
	Must be located at least 450mm from each lot boundary	
	Must be located at least 1m from any registered easement, sewer main or water main	
<b>Bed and breakfast accommodation</b> <b>State</b>	Must be carried out on land in a land use zone where bed and breakfast accommodation is a permissible use	
	Must be in an existing dwelling house that has a floor area not more than 300m <sup>2</sup>	
	Must consist of not more than 3 guest bedrooms	
	Must be registered with Council's Environment Services section for regular inspection and comply with fire safety and health regulations	
<b>Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses</b> <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or on land in a foreshore area	
	Must be for domestic purposes only	
	Must not have a floor area of more than 20m <sup>2</sup>	
	Must not be higher than 3m above ground level (existing)	
	Must be located at least 900mm from each lot boundary	
	If it is not on land in the 1(a) Rural Agriculture zone – must be located behind the building line of any road frontage	
	Must not be a shipping container	
	Must be constructed or installed so that roof water is disposed of without causing a nuisance to adjoining landowners	
	Must be located at least 1m from any registered easement, sewer main or water main	
	If it is located on bushfire prone land and is less than 5m from a dwelling – must be constructed of non-combustible material	
	If it is constructed or installed in a heritage conservation area or draft heritage conservation area - must be located in the rear yard	
	No more than 2 developments per lot	

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Change of use - Industries and warehouses <b>Local</b>	1 type of industry to another type of industry, or 1 type of warehouse to another type of warehouse,	
	The building is lawfully used, or has been lawfully constructed to be used, for industry or light industry	
	Total floor space is less than 2000m <sup>2</sup>	
	The use is not a hazardous or offensive industry	
	The use does not require a trade waste agreement	
	The building must have a current fire safety certificate or fire safety statement	
Change of use – Shops and commercial premises <b>Local</b>	1 type of shop to another type of shop, or 1 type of commercial premises to another type of commercial premises, or 1 type of shop to commercial premises	
	The building is lawfully used, or has been lawfully constructed to be used, for the purposes of a shop or commercial premises	
	The use must be consistent with the classification of the building under the <i>Building Code of Australia</i>	
	The proposed use must not involve the preparation of food for sale or consumption, hairdresser, beauty salon or restricted premise	
	The different use must comply with the conditions of any relevant existing development consent	
	The different use must not result in an increase in the gross floor area of the building	
	The building must have a current fire safety certificate or fire safety statement	
Charity, clothing and recycling bins <b>Local</b>	Must be located in residential and commercial zones only	
	Maximum of 2 bins at any 1 location	
	Area must be kept clean and tidy at all times	
	Consent of land owner must be obtained prior to placement of the bins	
Clothes hoists and clothes lines <b>State</b>	Must be located behind the building line of any road frontage	
	Must not be constructed or installed on land in a foreshore area	
	If it is constructed or installed on or in , or in relation to, a heritage item or draft heritage item or in a heritage conservation area or a draft heritage conservation area – must be located in the rear yard	

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Communications dishes (radio and satellite) <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area	
	Must be for domestic purposes only	
	If it is roof mounted: <ul style="list-style-type: none"> <li>▪ must not have a diameter of more than 900mm</li> <li>▪ must not higher than 1.8m above the highest point of the roof of the dwelling on the lot</li> </ul>	
	If it is ground mounted: <ul style="list-style-type: none"> <li>▪ must not have a diameter of more than 1.8m</li> <li>▪ must be not higher than 1.8m above the highest point of the roof of the dwelling on the lot</li> <li>▪ must be located in the rear yard</li> <li>▪ must be located at least 900mm from each lot boundary</li> </ul>	
	Not more than 1 development per dwelling	
<b>Dams</b> <b>Local</b>	Must be on land zoned 1(a) Rural Agriculture only	
	Must have an outside wall height to the crest of 1m or less	
	Must be a minimum 10m from the property boundaries	
	Capacity must not exceed 1 megalitre	
	Spillways must not direct water onto adjoining properties	
	Maximum of 1 dam per property	
<b>Demolition</b> <b>State</b>	Must not be carried out on or in, or in relation to, a heritage item or draft heritage item or in a heritage conservation area or draft heritage conservation area	
	Must be carried out in accordance with <i>AS 2601-2001 Demolition of structures</i>	
	Applies to other exempt development only	

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Driveways <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item in a heritage conservation area or a draft heritage conservation area or on land in a foreshore area	
	Must be for domestic purposes only	
	Must be constructed so that any surface water is disposed of without causing a nuisance to adjoining owners	
	Must not require cut and fill more than 600mm below or above ground level (existing)	
	Must not be wider than the open hard stand space, carport or garage with which it is associated	
	Must be constructed in accordance with <i>AS 2890.1-2004 Parking facilities – off street car parking</i>	
	Must be constructed in accordance with the relevant road authority's policy and specifications on vehicle and driveway crossings	
	Must have the consent of the relevant road authority under the <i>Roads Act 1993</i>	
Earthworks and retaining walls <b>State</b>	Must not be carried out, constructed or installed on or in, or in relation to, a heritage item or draft heritage item	
	Must be for domestic purposes only	
	Must be located at least 900mm from each lot boundary	
	If a retaining wall: <ul style="list-style-type: none"> <li>▪ must not be higher than 600mm (including the height of any batters) above ground level (existing)</li> <li>▪ If it is on a sloping site and stepped to accommodate the fall in the land – must not be higher than 800mm above ground level (existing) at each step</li> <li>▪ Must have adequate drainage lines behind it</li> </ul>	
	Must not require cut or fill more than 600mm below or above ground level (existing)	
	Must not redirect the flow of surface water onto an adjoining property	
	Must not cause surface water to be disposed of without causing a nuisance to adjoining owners	
	Must be located at least 1m from any registered easement, sewer main or water main	
	If the fill is more than 150mm deep – must not occupy more than 50% of the landscaped area	
	If it is carried out, constructed or installed in a heritage conservation area or a draft heritage conservation area – must be located in the rear yard	
	Must be located at least 50m from a water body (natural)	

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Farm buildings and structures <b>State</b>	Must be constructed or installed on land in the 1(a) Rural Agriculture zone only	
	Must not be constructed or installed on or in, or in relation to, a heritage item or draft heritage item	
	Must not be higher than 7m above ground level (existing)	
	Must not have an area of more than 0.5ha if it is a stockyard or 200m <sup>2</sup> if it is any other building or structure	
	Must be located at least 20m from the primary road frontage of the lot and at least 10m from the other lot boundaries	
	Must not be constructed or installed within 50m of a dwelling on an adjoining property	
	Must be located at least 1m from any registered easement, sewer main or water main	
	To the extent it is comprised of metal components – must be designed by, and constructed in accordance with the specifications of, a professional engineer	
Fences – non rural (behind the building line) <b>State</b>	Constructed or installed on land in any zone other than 1(a) Rural Agriculture	
	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or a draft heritage item or in a foreshore area	
	Must not constructed or installed on a flood control lot	
	If it is constructed of timber, metal or light weight materials – must not be higher than 1.8m above ground level (existing)	
	If it is constructed of masonry materials or chain wire – must not be higher than 1m above ground level (existing)	
	If it is constructed of metal components – must be of low reflective, factory pre-coloured materials	
	Must not be an electrical fence or use barbed wire	
	If it is on a sloping site and stepped to accommodate the fall in the land – must not be higher than 2.2m above ground level (existing) at each step	
	Must not redirect the flow of surface water onto an adjoining property	
	If it is located in core Koala habitat – must be constructed or installed in accordance with any relevant council policy	
	If it is located on bushfire prone land – must be constructed of non-combustible material or hardwood	
	If the development is constructed or installed on a secondary road frontage, it may be constructed up to a point that is level with the building line for primary road frontage	

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Fences – non rural (forward of the building line) <b>State</b>	Constructed or installed on land in any zone other than 1(a) Rural Agriculture	
	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area	
	Must not be constructed or installed on a flood control lot	
	Must not be higher than 1.2m above ground level (existing)	
	Must be an open style incorporating pickets, slats, palings or the like or lattice style panels with a minimum gap of 25mm	
	Must not be solid metal panels or chain wire fencing	
	Must not be an electrical fence or use barbed wire	
	If it is on a sloping site and stepped to accommodate the fall in the land – must not be higher than 1.5m above ground level (existing) at each step	
	Must not redirect the flow of surface water onto an adjoining property	
	If it is an entrance gate – must not swing open over council property	
	If it is located in core Koala habitat – must be constructed or installed in accordance with any relevant Council policy	
	If it is located on bushfire prone land – must be constructed of non-combustible material or hardwood	
Fences – rural <b>State</b>	Constructed or installed on land zoned 1(a) Rural Agriculture only	
	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or draft heritage conservation area	
	Must not be constructed or installed on a flood control lot	
	Must not be not higher than 1.8m above ground level (existing)	
	If it is a boundary fence that has frontage to a public road – must be constructed using post and wire or post and rail	
	If it is electrical fencing – must be constructed in accordance with <i>AS/NZS 3014:2003 Electrical installations – electric fences</i>	
	If any part of it is a masonry decorative feature associated with an entrance gate on a boundary that has a frontage to a public road – must not extend more than 3m from either side of the gate	
	If it is on a sloping site and stepped to accommodate the fall in the land – must not be higher than 2.2m above ground level (existing) at each step	
	Must not redirect the flow of surface water onto an adjoining property	

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<b>Flagpoles</b> <b>State</b>	Must not be higher than 6m above ground level (existing)	
	Must not have a diameter of more than 90mm	
	Must be located at least 3m from each lot boundary	
	Any flag flown must not have an area of more than 2.5m <sup>2</sup>	
	Not more than 1 per lot	
<b>Fowl and poultry houses</b> <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item	
	If constructed or installed on land in the 2(a) Residential or 2(c) Residential zone: <ul style="list-style-type: none"> <li>▪ Must be not higher than 3m above ground level (existing)</li> <li>▪ Must not have a floor area of more than 15m<sup>2</sup></li> <li>▪ Must be located in the rear yard,</li> <li>▪ Must not house more than 10 fowls or poultry</li> </ul>	
	If constructed or installed on land in the 1(a) Rural Agriculture zone: <ul style="list-style-type: none"> <li>▪ Must be not higher than 7m above ground level (existing)</li> <li>▪ Must not have a floor area of more than 50m<sup>2</sup></li> </ul>	
	Must be located at least 3m from each lot boundary	
	If it houses fowls (including any guinea fowls) only – must be located at least 4.5m from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food	
	If it houses other types of poultry – must be located at least 30m from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food	
	Must be enclosed to prevent the escape of poultry	
	Must be constructed or installed so that roof water is disposed of without causing a nuisance to adjoining owners	
	Must be located at least 1m from any registered easement, sewer main or water main	
	If it is located on bushfire prone land and is less than 5m from a dwelling – must be constructed of non-combustible material	
	If it is constructed or installed in a heritage conservation area or a draft heritage conservation area – must be located in the rear yard	
	In all zones other than the 1(a) Rural Agriculture zone there must not be more than 1 development per lot	

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<p>Home business <b>State</b></p>	<p>Home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:</p> <ul style="list-style-type: none"> <li>▪ the employment of more than 2 persons other than those residents, or</li> <li>▪ interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or</li> <li>▪ the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or</li> <li>▪ the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or</li> <li>▪ the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.</li> </ul>	
	<p>Must not involve a change of building use. Under the <i>Building Code of Australia</i> a change of building use involving a floor area greater than 10% of the floor area of a building is a change of building use</p>	

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<p>Home industry <b>State</b></p>	<p>Home industry means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:</p> <ul style="list-style-type: none"> <li>▪ The employment of more than 2 persons other than those residents, or</li> <li>▪ interference with the amenity of the neighbourhood of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or</li> <li>▪ The exposure to view, from any adjacent premises, or from any public place, of any unsightly matter, or</li> <li>▪ The exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling) or</li> <li>▪ The sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building</li> <li>▪ Does not include bed and breakfast accommodation or sex services premises</li> </ul>	
	<p>Must not involve a change of building use. Under the <i>Building Code of Australia</i> a change of building use involving a floor area greater than 10% of the floor area of a building is a change of building use</p>	

# Port Stephens Council – Exempt Development Guide

Home occupation <b>State</b>	Means an occupation carried on or in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve: <ul style="list-style-type: none"> <li>▪ The employment of persons other than those residents, or</li> <li>▪ Interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise</li> <li>▪ The display of goods, whether in a window or otherwise, or</li> </ul>	
	<ul style="list-style-type: none"> <li>▪ The exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or</li> <li>▪ The sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail</li> <li>▪ Does not include bed and breakfast accommodation, a brothel or home occupation (sex services)</li> </ul>	
	Must not involve a change of building use. Under the <i>Building Code of Australia</i> a change of building use involving a floor area greater than 10% of the floor area of a building is a change of building use	
Home-based child care <b>State</b>	Means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions: <ul style="list-style-type: none"> <li>▪ The service is appropriately licensed within the meaning of the <i>Children and Young Persons (Care and Protection) Act 1998</i></li> <li>▪ The number of children (including children related to the carer or licensee) does not at any on time exceed 7 children under the age of 12 years , including no more than 5 who do not ordinarily attend school</li> </ul>	
Internal fit out to shop or commercial premises <b>Local</b>	Non-structural work only (must not include load bearing walls and walls incorporating structural bracing units)	
	Must not reduce light or ventilation	
	Must not reduce the number or size of exits	
	Must not involve the enclosure of open areas	

## Port Stephens Council – Exempt Development Guide

Landscaping structures <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item, or on land in a foreshore area	
	Must not be not higher than 2.1m above ground level (existing)	
	Must not be wider than 1.5m	
	Must not be located at least 900mm from each lot boundary	
	Must not compromise masonry construction higher than 1m from ground level (existing)	
	If it is constructed or installed in a heritage conservation area or a draft heritage conservation area – must be located in the rear yard	
Letterboxes <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item	
	Must not be higher than 1.2m above ground level (existing)	
	Must be visible from the road alignment	
	Must have appropriate numbering that is visible from the road alignment	
	Only 1 development per lot	
Minor building alterations (internal) <b>State</b>	Replacement or renovation of a doorway, wall, ceiling or floor lining, a deteriorated frame member, a bathroom or kitchen, a built in fixture such as a vanity, a cupboard or a wardrobe	
	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item	
	If it is the replacement or renovation of a deteriorated frame member – must be of equivalent or improved quality material	
	Must not include a change to the configuration of a room, whether by removal of an existing wall, partition or other means	
	Must not cause reduced window arrangements for light and ventilation weeds, reduce the size of a doorway or involve the enclosure of an open area	
	Must not affect the load bearing capacity (whether vertical or horizontal) of a building	
	Must not include a change to the fire resisting components of a building	
	If it is the installation of new or replacement insulation material in a dwelling, it must be in accordance with Part 3.12.1 of the <i>Building Code of Australia</i>	

## Port Stephens Council – Exempt Development Guide

Minor building alterations (external) <b>State</b>	Minor external non-structural building alterations to a dwelling such as: <ul style="list-style-type: none"> <li>▪ painting, plastering, cement rendering, cladding, attaching fittings or decorative work</li> <li>▪ the replacement of an external window, glazing areas or a door (other than those on bushfire prone land)</li> <li>▪ the repair to or replacement of a non-structural wall or roof cladding</li> </ul>	
	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area	
	Must not compromise the making of, or an alteration to the size of, any opening in a wall or roof, such as a doorway, window or skylight	
	Must not reduce the existing fire resistance level of a wall	
	If located on bushfire prone land – must be adequately sealed or protected to prevent the entry of embers and use equivalent or improved quality materials	
Pathways and paving <b>State</b>	Must be associated with a balcony, deck, patio, terrace or verandah	
	Must be for domestic purposes only	
	Must be constructed so that any surface water is disposed of without causing a nuisance to adjoining owners	
	Must not require cut or fill more than 600mm below or above ground level (existing)	
	Must not have an area more than 15% of the floor area of the associated development	
Playground equipment <b>State</b>	Must be for domestic purposes only	
	Must be not higher than 2.5m above ground level (existing)	
	If it is not on land in land located in the 1(a) Rural Agriculture zone – must be located in the rear yard	
	Must be located at least 1m from any registered easement, sewer main or water main	

## Port Stephens Council – Exempt Development Guide

Portable swimming pools and spas and child-resistant barriers <b>State</b>	Must not be constructed on or in, or in relation to, a heritage item or draft heritage item or in a foreshore area	
	Must be located in the rear yard	
	Must be located at least 1m from each lot boundary	
	Must not exceed 2000L in capacity	
	Must not require structural work for installation	
	Must not impact on the structural stability of any building	
	A child restraint barrier must be constructed or installed in accordance with the requirements of the <i>Swimming Pools Act 1992</i>	
Privacy screens <b>State</b>	Must not be constructed on land in a foreshore area	
	Must not be attached to a boundary fence or retaining wall	
	Must not be higher than 2.5m above ground level (existing)	
	Must not be longer than 5m	
	Must be located at least 900m from each lot boundary	
	Must be located in the rear yard	
	Must be constructed of lattice, bamboo, canvas or the like	

# Port Stephens Council – Exempt Development Guide

Rainwater tanks (above ground) <b>State</b>	Must not be constructed or installed on land in a foreshore area	
	If it is on land other than land in the 1(a) Rural Agriculture zone: <ul style="list-style-type: none"> <li>▪ for an educational establishment – not have a capacity of more than 25000L and</li> <li>▪ in any other case – not have a capacity more than 10000L and</li> <li>▪ Must be located at least 450mm from each lot boundary</li> </ul> Note: Educational establishment means a building or place used for education (including teaching) and includes a pre-school, a school, a tertiary institution that provides formal education (such as a university or TAFE establishment) and an art gallery or museum that is not used to sell the items displayed in it (whether or not the building or place is also used for accommodation for staff or students)	
	If it is on land in the 1(a) Rural Agriculture zone – must be located at least 10m from each lot boundary	
	Must be located behind the building line of any road frontage	
	Must not rest on the footings of an existing building for support	
	Must not require cut and fill of more than 1m below or above ground level (existing)	
	Must be fitted with a first flush device that causes initial runoff rainwater to bypass the tank	
	Must have a sign affixed to it stating the water in it is rainwater	
	Must be constructed or installed to prevent mosquitoes breeding in it	
	Must have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners	
	Must be located at least 1m from any registered easement, sewer main or water main	
	If it is constructed or installed on or in, or in relation to a heritage item or draft heritage item – must be located in the rear yard	
	Pumps attached to the development must be housed in a soundproof enclosure	
	If reticulated water is provided to the lot, the development must not be interconnected with any system supplying drinking water to the lot unless it complies with the relevant water authorities requirements	

## Port Stephens Council – Exempt Development Guide

Rainwater tanks (below ground) <b>State</b>	Must be constructed or installed on land in the 1(a) Rural Agriculture zone only	
	Must be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank	
	Must have a sign affixed to it stating the water in it is rainwater	
	Must be constructed or installed to prevent mosquitoes breeding in it	
	Must have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners	
	If it is constructed or installed on or in, or in relation to, a heritage item or draft heritage item – must be located in the rear yard	
	Pumps attached to the development must be housed in a soundproof enclosure	
	If reticulated water is provided to the lot, the development must not be interconnected with any system supplying drinking water to the lot unless it complies with the relevant water authority's requirements	
<b>Scaffolding</b> <b>State</b>	Must be used in connection with other exempt development	
	Must enclose the work area	
	Must have sufficient structural strength to withstand, and be impenetrable to, the impact of falling rubble	
	Must be removed immediately after the purpose for which it was erected has finished and no safety issue will arise from its removal	

## Port Stephens Council – Exempt Development Guide

<p>Screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs) <b>State</b></p>	Must not be constructed or installed on or in, or in relation to, a heritage item or draft heritage item	
	Must not have a solid enclosing wall higher than 1.4m above the floor level of the structure it is enclosing	
	If it encloses a structure attached to the ground level of a single storey dwelling or the upper level of a two storey dwelling – must not be higher than the roof gutter line	
	If it encloses a structure attached to the ground level of a two storey dwelling – must not be higher than 3m above the floor level of the structure it is enclosing	
	If it encloses a freestanding structure – must not be higher than 3m above the floor level of the structure it is enclosing	
	If it encloses a structure attached to the upper level of a two storey dwelling – must not enclose an area of more than 9m <sup>2</sup>	
	Must be located behind the building line of any road frontage	
	Must be located at least 900mm from each lot boundary	
	To the extent it is comprised of metal components – must be constructed of low reflective, factory pre-coloured materials	
	If it is connected to a fascia – must be connected in accordance with a professional engineers specifications	
	Must have at least two-thirds of its perimeter comprising open screen mesh material	
	If it is located on bush fire prone land and is less than 5m from a dwelling – must be constructed of non-combustible material	
	If it is constructed in a heritage conservation area or a draft heritage conservation area – must be located in the rear yard	

# Port Stephens Council – Exempt Development Guide

Shade structures of canvas, fabric, mesh or the like <b>State</b>	Must be for domestic purposes only	
	Must not have an area of more than 15m <sup>2</sup>	
	Must not cause the total area of all such structures on the lot to be more than 15% of ground floor area of the dwelling on the lot	
	Must not be higher than 3m from ground level (existing)	
	Must be located at least 900mm from each lot boundary	
	Must be located behind the building line of any road frontage	
	To the extent it is comprised of metal components – must be constructed of low reflective, factory pre-coloured materials	
	If it is connected to a fascia – must be connected in accordance with a professional engineers specifications	
	Must not interfere with functioning of existing drainage fixtures or flow paths	
	If it is located on bushfire prone land and is less than 5m from a dwelling – must be constructed of non-combustible material	
	If it is constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or draft heritage conservation area – must be located in the rear yard	
	Must not be constructed or installed on land in a foreshore area	
Skylights, roof windows and ventilators <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item	
	Must not cause the total area of all such structures to be more than 2% of the total roof area of the building	
	Must be located at least 900mm from each lot boundary	
	Must be located at least 900mm from a wall separating attached dwellings	
	Must be constructed or installed so that any opening created is adequately weather proofed	
	Must not involve work that reduces the structural integrity of the building	
	If located on bushfire prone land – must be adequately sealed or protected to prevent entry of embers	
	If constructed or installed in a heritage conservation area – must not be visible from any road frontage	

## Port Stephens Council – Exempt Development Guide

Solar panels <b>Local</b>	Installed to manufacturers specifications	
	Installed by a licensed tradesperson	
	Associated building work must not reduce the structural integrity of the building or involve structural alterations	
	Any opening created must be adequately waterproofed	
	Must be consistent with the roof alignment	
Temporary builders structures <b>State</b>	Must be located on the lot in relation to which a development consent has been granted	
	If it contains plumbing fixtures, must have those fixtures connected to an approved waste water treatment device or an approved connection to the sewer	
	Must not be used for residential purposes	
	Must be located at least 1m from any registered easement, sewer main or water main	
	Must be removed from the lot immediately after completion of the works for which the development consent was granted	
Water heaters <b>Local</b>	Must not create offensive noise	
	The installation must not involve structural alterations	
	Must be installed by a licensed tradesperson	
	Must be located directly on the ground and behind the building line	
Water features and ponds <b>State</b>	Must not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item	
	Must not have a water depth of more than 300mm	
	If it is constructed or installed in a heritage conservation area or a draft heritage conservation area – must be located in a rear yard	
Windmills <b>State</b>	Must be constructed or installed on land in the 1(a) Rural Agriculture zone	
	Must be free standing	
	Must be designed by a professional engineer	