Development assessment—exempt development within residential zones

This fact sheet outlines when development in a residential zone does not require a development permit for a material change of use.

Summary

Under the *Sustainable Planning Act 2009*, all development is exempt unless it is self-assessable development, development requiring compliance assessment, assessable development, or prohibited development.

Schedule 4 of the *Sustainable Planning Regulation 2009* (SPR) prescribes development that can not be declared to be development of a particular type. In other words, the schedule prescribes development that will always be exempt from assessment against a planning scheme.

A material change of use of premises for certain buildings and structures, defined in the *Building Code of Australia*, is now prescribed in schedule 4 of SPR as being exempt from assessment against a planning scheme in certain circumstances. This means that development permits from local governments will no longer be required for these types of development.

Building classifications that will now be exempt are:

- class 1(a)(i)—detached houses
- class 1(a)(ii)—attached dwellings, comprising of no more than two dwellings (for example, duplexes)
- class 10—non-habitable buildings or structures such as a private garage, carport, shed, fence, mast, antenna, retaining or free standing wall, swimming pool or the like.

When do the exemptions apply?

The exemption applies to making a material change of use of premises for the above classes of buildings and structures only if the following requirements are met:

- the use is for a residential purpose in a residential zone
- for an existing house or duplex, the material change of use involves the repair, renovation, alteration or addition to the building
- for the building of a new house, there is no existing dwelling house on the premises
- the development is not self-assessable development under a planning scheme, temporary local planning instrument, master plan or a preliminary approval to which section 242 of the Act applies and
- either:
  - no overlay (other than an overlay about bush fire hazards), as identified in the planning scheme, applies to the premises, or
  - an overlay about bush fire hazards applies to the premises and the premises are less than 2000m^2.

Whilst detached houses, duplexes and class 10 buildings will be exempt from assessment against a planning scheme, they may still require a development approval for building work.

Local government can still provide that these types of development are self-assessable. In this case, these developments must comply with any applicable codes in the local government's planning scheme but do not require a development permit.

Building work applications are assessed by building certifiers. In some instances the application may be referred to the local government as a concurrence agency for the application.

The above exemptions will apply to all local government planning schemes and override any inconsistent provisions in the planning scheme.

When an application for material change of use is required

If the site is affected by an overlay (other than a bushfire overlay) in the planning scheme for the area in which the site is located, the planning scheme may still prescribe that a material change of use for a detached house, duplex or class 10 building requires a development permit, in addition to a development permit for building work.

If a bushfire overlay applies to the premises, a material change of use for a detached house, duplex or class 10 building will be exempt from assessment against a planning scheme if the premises is less than 2000m^2 in size. For all premises greater than 2000m^2 a development permit for the material change of use will still be required.

Further information

Further fact sheets on related matters are available on the department's website.

Department of State Development, Infrastructure and Planning
PO Box 15009 City East Qld 4002 Australia
tel 13 QGOV (13 74 68)
fax +61 7 3224 4683
info@dsdip.qld.gov.au

www.dsdip.qld.gov.au

PLS_0263.05
V2 March 2013