

# Fact Sheet: Cabanas, Cubby Houses, Ferneries, Garden Sheds, Gazebos & Greenhouses

## Exempt Development

### **State Environmental Planning Policy** (Exempt and Complying Development Codes) 2008

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**This fact sheet has been prepared to assist proponents to determine whether their proposal is exempt development in accordance with the provisions State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.**

A person may carry out development specified in this code without obtaining development consent from a consent authority if the person complies with the development standards that apply to the development (which includes the deemed-to-satisfy provisions of the *Building Code of Australia*).

However, 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, licences, permits and authorities still apply. For example, requirements relevant to development in this code are contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the Protection of the *Environment Operations Act 1997*, the *Roads Act 1993* and the *Swimming Pools Act 1992*.

**If you answer no in any of the sections below, your development is not exempt development and you may require development consent. It is recommended that you contact Council's Development Services section to discuss your proposal.**

## Section 1: Specified Development

		Complies	
		Yes	No
(1)	The proposal is for the construction or installation of a cabana, cubby house, fernery, garden shed, gazebo or and will not be constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a foreshore area.	<input type="checkbox"/>	<input type="checkbox"/>

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### Section 2: General Requirements

	Complies		
	Yes	No	N/A
(1) To be exempt development, the development:			
(a) 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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) must not, if it relates to an existing building, cause the building to contravene the <i>Building Code of Australia</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) must not be designated development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) must not be carried out on land that comprises, or on which there is, an item that is 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> .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Development that relates to an existing building that is classified under the <i>Building Code of Australia</i> as class 1b or class 2–9 is exempt development only if:			
(a) the building has a current fire safety certificate or fire safety statement,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) no fire safety measures are currently implemented, required or proposed for the building.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) To be exempt development, the development must:			
(a) be installed in accordance with the manufacturer's specifications, if applicable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Note.** A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. Development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

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### Section 3: Land-based Requirements

	Complies	
	Yes	No
(1) To be exempt development, the development must not be carried out on land that is an environmentally sensitive area.		
(2) <b>Environmentally sensitive area</b> means any of the following		
(a) the coastal waters of the State	<input type="checkbox"/>	<input type="checkbox"/>
(b) a coastal lake	<input type="checkbox"/>	<input type="checkbox"/>
(c) land to which <i>State Environmental Planning Policy No. 14 – Coastal Wetlands</i> or <i>State Environmental Planning Policy No. 26 – Littoral Rainforests</i> applies	<input type="checkbox"/>	<input type="checkbox"/>
(d) 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>	<input type="checkbox"/>	<input type="checkbox"/>
(e) land within an wetland of international significance declared under the Ramsar Convention on Wetland or within a World heritage area declared under the World Heritage Convention	<input type="checkbox"/>	<input type="checkbox"/>
(f) land within 100m of land to which paragraph (c), (d) or (e) applies	<input type="checkbox"/>	<input type="checkbox"/>
(g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance	<input type="checkbox"/>	<input type="checkbox"/>
(h) land reserved under the <i>National Parks and Wildlife Act 1974</i> or land to which Part 11 of that Act applies	<input type="checkbox"/>	<input type="checkbox"/>
(i) 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	<input type="checkbox"/>	<input type="checkbox"/>
(j) 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>	<input type="checkbox"/>	<input type="checkbox"/>
(3) To be exempt development, the development must not be carried out on land that is excluded land identified by an environmental planning instrument	<input type="checkbox"/>	<input type="checkbox"/>
(4) <b>Excluded land identified by an environmental planning instrument</b> means land identified by an environmental planning instrument as being any of the following		
(a) within a buffer area	<input type="checkbox"/>	<input type="checkbox"/>
(b) a coastal erosion hazard	<input type="checkbox"/>	<input type="checkbox"/>

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### Section 3: Land-based Requirements (Continued)

	Complies	
	Yes	No
(c) a difficult site	<input type="checkbox"/>	<input type="checkbox"/>
(d) within an ecologically sensitive area	<input type="checkbox"/>	<input type="checkbox"/>
(e) environmentally sensitive land	<input type="checkbox"/>	<input type="checkbox"/>
(f) within a foreshore scenic protection area	<input type="checkbox"/>	<input type="checkbox"/>
(g) within a protected area	<input type="checkbox"/>	<input type="checkbox"/>
(h) within a scenic area	<input type="checkbox"/>	<input type="checkbox"/>
(i) within a scenic preservation area	<input type="checkbox"/>	<input type="checkbox"/>
(j) within a scenic protection area	<input type="checkbox"/>	<input type="checkbox"/>
(k) within a special area	<input type="checkbox"/>	<input type="checkbox"/>

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### Section 4: Development Standards

	Complies	
	Yes	No
(1) The standards specified for that development are that the development must:		
(a) (Repealed).		
(b) Not have a floor area of more than 20m <sup>2</sup> .	<input type="checkbox"/>	<input type="checkbox"/>
(c) Be not higher than 3m above ground level (existing).	<input type="checkbox"/>	<input type="checkbox"/>
(d) Be located at least 900mm from each lot boundary.	<input type="checkbox"/>	<input type="checkbox"/>
(e) If it is not on land in Zone RU1, RU2, RU3 or RU4—be located behind the building line of any road frontage.	<input type="checkbox"/>	<input type="checkbox"/>
(f) Not be a shipping container.	<input type="checkbox"/>	<input type="checkbox"/>
(g) Be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners.	<input type="checkbox"/>	<input type="checkbox"/>
(h) (Repealed).	<input type="checkbox"/>	<input type="checkbox"/>
(i) If it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material	<input type="checkbox"/>	<input type="checkbox"/>
(j) If it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.	<input type="checkbox"/>	<input type="checkbox"/>
(k) If it is located adjacent to another building – be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within, that building.	<input type="checkbox"/>	<input type="checkbox"/>
(2) There must not be more than 2 developments per lot.	<input type="checkbox"/>	<input type="checkbox"/>

If the answer is **YES** (or **N/A**) to all of the above questions then the proposed development is deemed to be exempt.