

NOTE: This Chapter should not be read in isolation. You may need to consider other chapters of this DCP when preparing your application.

# CHAPTER 3: EXEMPT DEVELOPMENT

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# Chapter 3: Exempt Development

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## Amendment history

Version Number	Date Adopted by Council	Commencement Date	Amendment Type
1	23 June 2015	1 July 2015	New

## Chapter 3: Exempt Development

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### 1 Purpose

The purpose of this Chapter is to identify exempt development in addition to those identified in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP), Shoalhaven Local Environmental Plan (LEP) 2014 and Shoalhaven LEP (Jerberra Estate) 2014.

### 2 Application

Except as provided in Section 5, this Chapter applies to all land within the Shoalhaven local government area.

### 3 Objectives

The objectives are to:

- i. Detail circumstances when Council's approval is not required pursuant to the provisions of the *Environmental Planning and Assessment (EP&A) Act 1979* for development that is of minimal environmental impact.
- ii. To make Council's policies and requirements for exempt development readily accessible and easy for the public to understand.

### 4 Context

Exempt development is development that has been classified as being very low impact development. As long as the development meets specific standards/criteria (see Sections 5 and 6), consent may not be required from Council. If the criteria and standards for the particular exempt development type cannot be met, a proposal can only be undertaken as development with consent, either as complying development or after approval is obtained from Council for a development application.

The Codes SEPP identifies the majority of development types that can be undertaken as exempt development in NSW. The Shoalhaven LEP 2014, Shoalhaven LEP (Jerberra Estate) 2014 and Shoalhaven DCP 2014 identify additional development types to the Codes SEPP that can be undertaken as exempt development in Shoalhaven.

Exempt development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

### 5 General requirements for exempt development

For exempt development to be carried out on your site, you must comply with the requirements of Section 76 of the *Environmental Planning and Assessment Act 1979* and Part 3 of the Shoalhaven Local Environmental Plan 2014, specifically clauses 3.1(3), 3.1(4), 3.1(5) and 3.3.

## 6 Exempt Schedule

### 6.1 Garage Sales

#### 6.1.1 Objectives

The objectives are to:

- i. Ensure that garage sales do not become pseudo shops and to discourage unfair competition with existing commercial centres;
- ii. Minimise disturbance to neighbours from noise, traffic and headlight glare.

#### 6.1.2 Exemption Criteria

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Type of development	Exemption Criteria
Garage Sales	<ul style="list-style-type: none"><li>• A maximum of two (2) garage sales from any one residential property within a 12 month period.</li><li>• Is restricted to daylight hours.</li><li>• The maximum period allowed for the garage sale is two (2) consecutive days, except over weekends affected by public holidays, in which case it may extend to three (3) consecutive days.</li></ul>

**Note:** Refer to Section 6.2 for exempt criteria for temporary directional signs for garage sales.

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## 6.2 Advertising signage and structures

### 6.2.1 Traffic, security and safety signs

Traffic, security and safety signs do not require development consent if they do not advertise, describe or promote a business, product or service. Traffic, security and safety signs can include internal traffic (regulatory and advisory) signs, security signs, warning signs and safety signs required by relevant Acts.

Traffic, security and safety signs do not contribute to the total sign face area permitted on a property.

### 6.2.2 Change of message content

A change to the message content of a **sign** is exempt development, provided that the proposed **sign** is not prohibited in the zone. **Council** may, however, lodge an objection to the advertising standards bureau if a proposed sign contains language or symbols that, in the opinion of **Council**, have the potential to cause offence.

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### 6.2.3 Other Signage

For other types of signage to be exempt under this Chapter, you also must satisfy the following exemption criteria and the requirements of Section 6.2.4. Your signage proposal:

- Must have the consent in writing of the owner of the land on which the sign is to be located and, if the **sign** or part of the **sign** projects over adjoining land, the consent of the owner of the adjoining land.
- Must be approved under section 138 of the *Roads Act 1993*, if the sign or part of the **sign** projects over a public road, including a footway.
- Is not to be carried out on or in relation to a building being used as **restricted premises**.
- Is not to cover any mechanical ventilation inlets or outlets located on any building on which it is carried out.
- Is not to obstruct or interfere with any traffic **sign**.
- Is not to restrict any vehicular or pedestrian access to or from the site.
- Is not to obstruct stormwater drainage.
- Is not to be carried out within 1m of any easement.

### 6.2.4 Exemption Criteria

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Type of development	Exemption Criteria
All Commercial and Industrial Zones	
Small Flags	<ul style="list-style-type: none"> <li>• Located at head height at either side of the ground floor entrance to a shop or office.</li> </ul>
"A" board signs	<ul style="list-style-type: none"> <li>• Maximum <b>sign face area</b> of 1m<sup>2</sup> each <b>side</b>.</li> <li>• Maximum width of 750mm.</li> <li>• Not located in road reserves, footpath or on public property.</li> <li>• One per property.</li> </ul>
<b>Inflatables</b>	<ul style="list-style-type: none"> <li>• Not displayed for more than 10 consecutive days and not more than three (3) periods in any one (1) calendar year.</li> <li>• Wholly contained within the property boundaries (i.e. not within the road reserve).</li> <li>• Complies with WorkCover Authority requirements.</li> <li>• Airborne devices are licensed by the appropriate authority.</li> <li>• A dedicated public liability insurance policy of \$10 million for the device.</li> </ul>
<p><b>Note:</b> Inflatable means any fixed or captive balloon, blimp, kite or cold air inflatable or the like and includes lighter than air devices used for short term promotional purposes.</p>	

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Type of development	Exemption Criteria
All Residential, Special Purposes and Recreation Zones	
Free-standing <b>business or building identification signs</b>	<ul style="list-style-type: none"><li>• Sign is well maintained and sign content is legible, not offensive and applicable to the business at all times.</li><li>• Sign is not floodlit or illuminated in any way.</li><li>• Sign face area does not exceed 0.75m<sup>2</sup>.</li><li>• One sign per premises or for premises containing more than one tenant:<ul style="list-style-type: none"><li>– One sign per tenant; and</li><li>– A maximum combined sign face area of 1m<sup>2</sup>.</li></ul></li><li>• The sign is to be erected within the property boundaries.</li><li>• Maximum height of 2.4m.</li><li>• Design is consistent with the design guidelines outlined in this Chapter.</li></ul> <p><b>Note:</b> An illuminated sign describes the method of presentation and means any sign that is illuminated either internally or externally by static or moving lights and includes floodlit signs, neon, flashing, chasing, or animated signs and colour changing fibre optic displays.</p>
Rural and Environment Protection Zones	
Free-standing <b>business or building identification sign</b>	<ul style="list-style-type: none"><li>• <b>Sign</b> is well maintained and <b>sign</b> content is legible, not offensive and applicable to the business at all times.</li><li>• <b>Sign</b> is not floodlit or illuminated in any way.</li><li>• <b>Sign face area</b> does not exceed 0.75m<sup>2</sup>.</li><li>• One <b>sign</b> per premises or for premises containing more than one tenant:<ul style="list-style-type: none"><li>– One <b>sign</b> per tenant; and</li><li>– A maximum combined <b>sign face area</b> of 1m<sup>2</sup>.</li></ul></li><li>• The <b>sign</b> is to be erected within the property boundaries.</li><li>• Maximum height of 2.4m.</li><li>• Design is consistent with the design guidelines outlined in this Chapter.</li></ul>

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Type of development	Exemption Criteria
Public Footpaths (includes all land within the public road reserve)	
Illuminated Advertising (Identilite) Sign	<ul style="list-style-type: none"> <li>The sign is to be erected in accordance with Council's Interim Policy for Public Information Signs.</li> </ul>
Signs on Bus Shelters and Seats	<ul style="list-style-type: none"> <li>The sign is to be erected in accordance with Council's Interim Policy for Public Information Signs.</li> <li>The sign is subject to any contractual arrangements with Council.</li> </ul>
Street Signs Including Fingerboard Directional Signs	<ul style="list-style-type: none"> <li>Includes street signs comprising name plates, directional signs and advance traffic warning signs, and warning, advisory and regulatory signs.</li> <li>Construction by or for Council or the Roads and Maritime Service (RMS) in accordance with the RMS Guidelines and Council's Interim Policy for Public Information Signs.</li> <li>The street sign must be designed, fabricated and installed in accordance with relevant RMS and Shoalhaven City Council standards.</li> </ul>
Other Signs	
Temporary directional signs for markets and garage sales	<ul style="list-style-type: none"> <li>Sign face area is not to exceed 0.36m<sup>2</sup>.</li> <li>A sign may be erected at each turnoff and at each corner but must be well clear of the carriageway and not obstruct foot traffic.</li> <li>Signs are prohibited within the boundaries of classified main roads and state highways.</li> <li>Signs must not be erected on roundabouts, median strips, affixed to trees, lighting standards, guideposts or power poles in road reserves.</li> <li>Signs may be erected during the period between midday on the last working day prior to a weekend (including long weekends) and is removed prior to midday on the first working day after a weekend.</li> </ul>
Motor Vehicle Signs	<ul style="list-style-type: none"> <li>Advertisements on motor vehicles are used principally for the conveyance of goods or passengers.</li> <li>The vehicle is able to be driven with the sign displayed.</li> <li>The vehicle must not be parked for extended periods of time for the purpose of an advertising structure.</li> </ul>
<p><b>Note:</b> A motor vehicle sign means any sign fitted to, placed upon or beside a motor vehicle, caravan or trailer stopped on a public road or private property for the primary purpose of displaying such sign but does not include any sign on a motor vehicle which is able to be driven on public roads with the sign displayed.</p>	

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Type of development	Exemption Criteria
Public Notice on Public Land	<ul style="list-style-type: none"> <li>Informational, directional or security signs displayed by a public authority on public land are to have a sign face area not exceeding 8m<sup>2</sup> in urban areas and 6m<sup>2</sup> in rural areas.</li> <li>Design is consistent with the design guidelines outlined in this Chapter.</li> </ul>
Directional Real Estate Agent Signs	<ul style="list-style-type: none"> <li>Are not permitted at town entry and other “gateway sites” unless the site is up for sale. This includes locations where there are town entry signs, landscaping and structures, and includes the Nowra Gateway at the corner of Princes Highway and Pleasant Way adjacent to the helicopter garden.</li> <li>Directional signs may be erected at each turnoff and at each corner leading to a sales point, open house, etc.</li> <li>Directional signs are not to exceed 0.36m<sup>2</sup> in sign face area.</li> <li>Directional signs are prohibited within the boundaries of classified main roads and state highways.</li> <li>Directional signs may be erected during the period between midday on the last working day prior to a weekend (including long weekends) and is removed prior to midday on the first working day after a weekend.</li> <li>Directional signs must be well clear of the carriageway and not obstruct foot traffic.</li> </ul>
Fence signs on Public Land	<ul style="list-style-type: none"> <li>Fence signs are to face inwards towards a playing field or spectator enclosure and not visible beyond the site.</li> <li>The sign is to be temporary and only erected during the course of sporting fixtures.</li> <li>The sign is to be well maintained and the sign content legible.</li> <li>The sign message or content is not to be offensive.</li> <li>Sign message or content is not to relate to the use of substances which may be harmful to health such as alcoholic beverages, cigarettes, tobacco and the like.</li> <li>Council has not required the sign to be removed.</li> </ul>
<p><b>Note:</b> A fence sign is a sign painted on or otherwise affixed to a fence that is:</p> <ul style="list-style-type: none"> <li>Designed and constructed to permanently delineate and identify a boundary alignment or enclosure.</li> <li>Purpose built and designed as a backdrop to a display area (eg motor vehicle sales yard) and is not more than 4 m in height; and</li> <li>Not within 20 m of a front property boundary, a temporary fence or hoarding to delineate and protect a construction site.</li> </ul>	



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**6.3 Subdivision**

**6.3.1 Exemption Criteria**

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Type of development	Exemption Criteria
Boundary adjustment between two allotments	<ul style="list-style-type: none"> <li>• Will not result in any building contravening the deemed to satisfy provisions of the <i>Building Code of Australia</i>.</li> <li>• Will not create any additional allotments.</li> <li>• The area of each allotment is not changed by more than 10%.</li> </ul>
A strata plan or strata plan of subdivision within the meaning of the Strata Schemes (Freehold Development) Act 1973 or the Strata Schemes (Leasehold Development) Act, 1986	<ul style="list-style-type: none"> <li>• Medium density development only for which an Occupation Certificate has been issued.</li> <li>• Does not apply to tourist accommodation or dual occupancy development.</li> <li>• Will not increase the number of allotments with frontage to a watercourse or waterfront lands.</li> </ul>

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**7 Planning instruments, policies and guidelines for consideration**

**Note:** This section is not exclusive and you may be required to consider other legislation, policies and other documents with your application.

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<b>Council Policies &amp; Guidelines</b>	<ul style="list-style-type: none"> <li>• <i>Interim Policy for Public Information Signs</i></li> </ul>
<b>External Policies &amp; Guidelines</b>	<ul style="list-style-type: none"> <li>• Building Code of Australia</li> </ul>
<b>Legislation</b>	<ul style="list-style-type: none"> <li>• Shoalhaven Local Environmental Plan 2014</li> <li>• Shoalhaven Local Environmental Plan (Jerberra Estate) 2014</li> <li>• State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</li> <li>• <i>Strata Schemes (Freehold Development) Act 1973</i></li> <li>• <i>Strata Schemes (Leasehold Development) Act 1986</i></li> <li>• <i>Local Government Act 1993</i></li> </ul>

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