

Exemption Certificates

An Exemption Certificate (pursuant to the *Planning Act 2016*) excuses the need (in special circumstances) to obtain development approval. This is different to an Exemption Certificate issued under the *QLD Heritage Act 1992* in respect of development on a Heritage Place. It means that where proposed development triggers assessment under a planning scheme, the Exemption Certificate may exclude the requirement to submit a development application to the Council for approval.

Exemption certificates are not intended to deal with major or complex development, but rather to cover work that should not reasonably be categorised as assessable development. The certificate remains valid for two years, unless otherwise stated and the development must be completed within the time period stated on the certificate.

What type of development may qualify for an Exemption Certificate?

The *Planning Act 2016* specifies the circumstances when an exemption certificate may be granted as follows:

- the development was categorised as assessable development because of an error; or
- the development was categorised as assessable development only because of particular circumstances that no longer apply; or
- the effects of the development would be minor or inconsequential, considering the circumstances under which the development had been categorised as assessable development.

How do I apply for an Exemption Certificate?

A request for an Exemption Certificate is to be made to the Assessment Manager (i.e. Council).

The request must include:

- a site plan of an appropriate scale showing the features of the premises and the location and extent of the proposed development; and
- evidence or justification that:
 - the proposed development is categorised as being assessable due to an error; or
 - the circumstances that make the development assessable no longer apply; or

- the works satisfy the type of work considered to be minor or inconsequential; and
- consultant report/s if applicable.

If I have an Exemption Certificate, does that remove the need for development approval?

Yes. This is because the Exemption Certificate has granted all or part of the development exempt from requiring development approval. Parts of the proposed development not covered by the certificate will require development approval.

How is the reason for the decision known?

The *Planning Act 2016* requires the decision maker for the Exemption Certificate to publish a notice about the decision on their website. This notice must state:

- a description of the premises for which the certificate was given;
- a description of the development to which the certificate relates;
- the reasons for giving the Exemption Certificate.

Who can apply for an Exemption Certificate?

There is no provision for a person to apply for an Exemption Certificate – though in practice, there is nothing preventing a person asking an Assessment Manager for an Exemption Certificate. An Assessment Manager may give an exemption certificate for premises without first being requested to do so.

Disclaimer

This fact sheet contains information that is general in nature based on our interpretation of laws existing at the time of publication and should not be relied upon as a substitute for specific professional advice.