

Guidelines

DEVELOPMENT APPLICATION GUIDELINES







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Development Application Guidelines

A.1 Information to be submitted with a Development Application

Council has outlined a step-by-step development assessment process on the Council website. Reference should also be made to “*Development application Checklist*” and “*Development Application Documentation Requests*” forms.

This is amended from time to time to take into account legislative amendments and best practice.

A.2 Development Application Lodgement Process

NB Fees must be paid at the time of lodging a development application with the Council in accordance with Council’s adopted Pricing Policy and Fees and Charges.

A.2.1 Exempt and Complying Development

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) identifies the majority of development types that can be carried out as exempt and complying development in NSW, therefore not requiring development consent.

An applicant must determine whether their proposal can be considered under the Codes SEPP or whether it requires development consent from Council. Enquiries can be made by reviewing www.planning.nsw.gov.au/housingcode, or <http://www.planning.nsw.gov.au/exemptandcomplying>, or by using the Electronic Housing Code www.electronichousingcode.com.au or at Council’s Customer Service Centre.

Development that is not categorised as exempt or complying development under the Codes SEPP requires the submission of a development application to Council.

A.2.2 Over-the-counter verbal advice

As a service to the customers, a duty officer is available at the Council’s main administrative office, during normal business hours, to assist with any basic planning enquiry. An applicant may choose to take advantage of this service prior to any formal discussions over a proposed development.

Verbal advice given on any planning, building or related matter is based on the best available information at the time, as a service to assist customers, but is indicative only.

Over-the-counter consultations with a duty officer are limited to 10 minutes. The duty officer can provide general information but cannot discuss concepts that relate to a specific site or plan. Under no circumstances should verbal advice be acted upon

without written confirmation either by means of an appropriate certificate, consent or letter issued by Council.

A.2.3 ‘Pre-DA’ advisory panel meetings

Applicants are encouraged to arrange formal discussions with Council officers prior to lodging a development application to address likely issues and opportunities based on the unique circumstances of their site prior to finalising the design of the scheme.

The discussions also provide the opportunity for Council officers to inform applicants of additional controls that may not have been considered.

Formal pre development application (pre-DA) meetings can be arranged via Council’s Customer Service Centre and are recommended for all developments. A fee is charged.

A formal pre-DA meeting involves submitting a preliminary set of plans and information to Council, a meeting with Council officers, and (depending on the nature of the proposal) provision of Council’s response in the form of a written report, reflecting to the main issues discussed at the pre-DA meeting.

Applicants must demonstrate that appropriate site and context analysis has been undertaken prior to requesting a formal pre-DA meeting. The appropriate detailed site analysis should occur prior to the preparation of preliminary concept plans. The preliminary concept plans required for the formal pre-DA meeting should include a site plan, floor plans, elevations, sections and a survey plan.

Pre-DA meetings are attended by relevant staff involved in the assessment and the determination of development applications. Relevant consultants and advisors used by the applicant should also attend these meetings.

Council staff will endeavour to provide an appropriate level of advice to applicants at pre-DA meetings. However, the quality of advice provided by Council staff on a project will be based upon the level of information provided to Council by the applicant or applicant’s consultant(s) at that meeting.

Further pre-DA meetings may be warranted for major or technically complex projects.

Council reserves its right to seek additional information at the development application stage where such information is necessary to enable assessment of the development application regardless of comments made at a pre-DA meeting.

A.2.4 Lodgement of a development application

The lodgement of a development application is required for any proposed development where Inner West Local Environmental Plan (Inner West LEP 2022) or any other environmental planning instrument specifies that a proposed development may only be carried out with development consent upon the land to which the instrument applies.

A development application is not required for any proposed development classified as ‘exempt development’ or ‘complying development’ under Inner West LEP 2022, any State Environmental Planning Policy (SEPP) or State Code.

Certain proposed developments may be classified as either under ‘designated development’ or an ‘integrated development’ under the EP&A Act or the EP&A Regulation in which case more EIS and public participation procedures apply.



A.2.4.1 Designated development

Designated development, defined in Schedule 3 of the EP&A Act and the EP&A Regulation lists developments where a more rigorous EIS process is necessary. Applications for designated development require an EIS undertaken in accordance with the requirements of the Director General of the NSW Department of Planning and Environment.

A.2.4.2 Integrated development

Under Section 4.46 of the EP&A Act, a range of development applications may be classified as integrated development requiring formal concurrence approval from a public authority.

A.2.4.3 Section 4.55(1) application – Modifications involving minor error, misdescription or miscalculation

A Section 4.55(1) application may be lodged with Council to seek to modify a development consent in order to rectify a minor error, misdescription or miscalculation.

A.2.4.4 Section 4.55(1A) application – Modifications involving minimal environmental impact

A Section 4.55(1A) application may be lodged with Council for any modification involving minimal environmental impact.

Council will assess the application, taking into account:

- Whether the proposed modification is of minimal environmental impact;
- Whether the development to which the consent, as modified, relates is substantially the same development as the development for which the consent was originally granted; and
- Any submissions made during the public exhibition of the application.

A.2.4.5 Section 4.55(2) application – Other modifications

A Section 4.55(2) application may be lodged with Council for other modifications to the consent.

Council will assess the application, taking into account:

- Whether the development to which the consent, as modified, relates is substantially the same development as the development for which the consent was originally granted;
- Any written objection forwarded by an approval body in relation to the development consent or in accordance with the general terms of approval previously granted by that approval body; and
- Any submissions made during the public exhibition of the application.

A.2.4.6 Section 8.2 Review Requests (review of a determination of a development application)

An applicant who is dissatisfied with Council's determination of their development application may lodge a Review Request under Section 8.2 of the Environmental Planning and Assessment Act requesting Council to review that determination.

Under Section 8.2 of the Act a request must be made and determined by Council within **six (6) months** of the date of the determination of the original application.

Under Section 8.5 of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to review a Determination, must:

- (a) notify the request for review in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and
- (b) consider any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and
- (c) in the event that the applicant has made amendments to the development described in the original application, be satisfied that the development, as amended, is substantially the same development as the development described in the original application.

NB *Section 8.2 Review Requests are subject to the same lodgement requirements as other applications discussed previously in Section A.2.*

A.2.4.7 Section 8.2 Review Requests (review of a determination of a Section 4.55 application)

An applicant who is dissatisfied with Council's determination of their application under Section 4.55 of the Environmental Planning and Assessment Act may lodge a Review Request under Section 8.2 of the Act requesting Council to review that determination.

Under Section 8.2 of the Act a review request of that determination must be made to Council within **twenty eight (28) days** of the date of the determination of the original application.

NB *Section 8.2 Review Requests are subject to the same lodgement requirements as other applications discussed previously in Section A.2.*

A.3 Development Application Assessment Process

Each development application will be considered on its own merits in terms of the achievement of the objectives of this DCP. Any variation to a planning control or requirement must be supported by appropriate written justification and other supporting documentation which demonstrates how the DCP objectives are met.

NB *Where a variation to a development standard is sought, it must be supported by a written request that seeks to justify the contravention of the development standard in accordance with Clause 4.6 of IWLEP 2022.*

In assessing an application, Council will consider a range of the matters, including (but not necessarily limited to):

- EP&A Act, in particular the 'matters for consideration' as listed under section 4.15;
- The EP&A Regulations;
- Any SEPP which applies to the land or development type;



- Any State Code which applies to the land or specific development type;
- IWLEP 2022;
- This DCP;
- Any draft environmental planning instrument which has been exhibited;
- The LG Act and Regulations;
- The BCA;
- Any other relevant legislation;
- Previous NSW Land and Environment Court judgments and planning principles which may be relevant in the assessment of an application for a particular land use;
- Any public submissions received during the public exhibition of the application;
- Any comments made by a relevant public authority; and
- Internal and external statutory and non-statutory referrals.