

Is a Development Application required?

Development includes the use of land or premises, the change of use of a building, advertising signage, subdivision of land, the erection of a building, the carrying out of work (e.g. earthworks, landfill) and the demolition of a building.

The first step in undertaking a development is to determine if it is a permissible use and if it requires a Development Application (DA).

Table 1 on the following page details the different categories of development and whether a Development Application is required or whether a Complying Development Certificate (CDC) application may be obtained.

Why is Development Approval required?

One of Warrumbungle Shire Council's core activities is to regulate the use and development of the land in its local government area. The Planning Approval process regulates 'use' and 'development' of land by assessing proposals against Council's Planning Scheme and the State's planning legislation. It particularly examines the impact of the proposed development or use on the surrounding area.

Development Application Fees and Charges

Applications require the payment of a variety of fees dependent on the type, scale and cost of the proposed development.

For example: To obtain approval to build a new single storey dwelling, you may select to lodge a Development Application and Construction Certificate Application, or a Complying Development Application if the specific criteria can be satisfied. Specific fees will apply for each application as well as additional fees relating to; notification to adjoining property owners of the development, variation of Council policies and guidelines including Section 94A Levy Contributions, which apply for all developments exceeding \$100,000, State Government Levies such as the Long Service Levy for all developments exceeding \$25,000 in value and the Planning Reform Levy for all developments exceeding \$50,000 in value, Local Government Act 1993 applications for water, stormwater and sewer work and fees associated with plumbing inspections, building inspections and development on bushfire-prone land.

Table 1 Development Categories

Type of Development	Description	Development Consent Required
Development that does not require development consent		
Exempt Development	<p>Exempt development is development of minimal environmental impact. State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) specifies exempt development under that Policy. The Code SEPP has state wide application and commenced on 27 February 2009.</p> <p>A copy of the SEPP is available at: http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+572+2008+cd+0+N</p>	No DA required
Development that requires consent		
'Only With Development Consent'	If a type of development is identified under the heading 'Only With Development consent' for a particular zone within the Land Use tables of the Warrumbungle LEP 2013, a Development Application will need to be lodged and determined by Council.	Yes. DA required
Complying Development	<p>Certain common and routine developments that do not require a merit assessment as long as it complies with specified, predetermined development standards. Complying development may be certified by either Council or a private certifier. A merit assessment is undertaken for complying development. It is required to be notified</p> <p>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) specifies complying development under that policy. http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+572+2008+cd+0+N</p>	Yes. A Complying Development Certificate is required
Major Project Development	The Minister has declared that certain developments are of state significance. Developments falling under this category are large e.g. coal mines, windfarms etc.	DA required (The Minister is the consent authority).
Development that requires additional issues to be covered as part of the consent process		
Integrated Development	<p>Some proposals not only require development consent from Council but also a permit or license from a State Government agency or other approval authority. In such cases, Council will refer the application to the necessary agency so that there is an integrated assessment for the proposal. If the development is approved, the terms of any additional approvals or licences will be incorporated into the approval.</p> <p>The Council must not impose any conditions which are inconsistent with those indicated by the other approval authority. If the approval authority indicates that it will not grant approval the Council must refuse the development consent.</p>	Yes. DA required
Designated Development	Designated development is defined in Schedule 3 of the Environmental Planning and Assessment Regulation 2000. This schedule lists those developments where a more rigorous environmental impact assessment process is necessary. These applications require the preparation of an Environmental Impact Statement (EIS) which must be undertaken in accordance with the requirements of the Director – General of the NSW Department of Planning.	Yes. DA required and Environmental Impact Statement

What are the consequences of doing work which is not approved by Council?

Council views illegal building works or failures to comply with the terms and conditions of their development consents as extremely serious.

Regulations and systems are put in place for the benefit of the local community and the area as a whole. Council is committed to rigorously monitoring any unauthorised changes to Development Applications or illegal building works.

There are a range of legal mechanisms in place to control illegal building works. Builders, home owners and developers caught carrying out these works without the required consents will be prosecuted or fined in the Local Court, or in more serious cases injuncted through the Land and Environment Court.

Illegal building works are those undertaken without the issue of a valid Development Consent and Construction Certificate. This also includes building work where a Construction Certificate has been issued and certain conditions under the Development Consent have not been met.

Where illegal building works are identified Council will:

- Issue a “Stop Work” notice where illegal building works continue to be built. Issue the builder with penalty infringement notices; and
- Offer builders either the option of demolishing the illegal works or submit a Development Application for the works.
- Illegal building works which constitute major breaches will be prosecuted through either the Local Court or the Land and Environment Court.

If illegal building work is observed by Council that is under the control of a Private Certifier, the Private Certifier will be given the opportunity to respond to the illegal building works. Should the response be deemed inadequate, Council may report the Private Certifier to The Building Professionals Board.

The consequences of carrying out illegal building works are significant and you should not under any circumstances risk it. Council is unable to issue Occupation Certificates for building works that have been carried out without consent; this could also void insurance on the property down the track.

Pre-Development/Pre-Lodgement Meeting

Before undertaking works or lodging an application, it is strongly recommended that the applicant organise a pre-development/pre-lodgement meeting with Council Officers to discuss the proposal and obtain feedback on the likely issues that need to be addressed by the application or whether the development is considered to be exempt. Council Officers cannot guarantee a favourable outcome for any development application at pre-lodgement stage, and such outcomes can only be determined following submission of all relevant information, plans, fees and completion of the assessment process.

The development application process is outlined on the following page in *Diagram 1*.

Diagram 1 Development Application Process

