

## SECTION 3 SUBMITTING AN APPLICATION

### 3.1 INTRODUCTION

The NSLEP 2013 states what types of proposed development or works that are:

- permitted without development consent (i.e. no consent required from Council);
- permitted as “*exempt development*” (i.e. no consent required from Council);
- permitted as “*complying development*” (i.e. consent is required from either Council or a private certifier);
- permitted with development consent (i.e. consent is required from Council); or
- prohibited.

It should be noted that the permissibility and approval requirements of some types of developments are also affected by the provisions of other environmental planning instruments, such as State Environmental Planning Policies (SEPPs).

Where required, a development application or a complying development application must be made to in order to obtain development consent. Failure to lodge an application when development consent is required is a breach against the [EP&A Act 1979](#) and may be subject to prosecution, demolition and/or fines. Applicants are advised to refer to the LEP or to contact Council’s Customer Service Centre or one of Council’s Planning Advisors to confirm consent requirements.

Application forms are available from the Customer Service Centre, or on Council’s website ([www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)) together with advice on the details, number and type of plans and supporting information required, fees and procedures.

### 3.2 PRE-DEVELOPMENT APPLICATION PROCESS

When preparing a development application, applicants are advised to first access the planning and development information located on Council’s website ([http://www.northsydney.nsw.gov.au/Building\\_Development](http://www.northsydney.nsw.gov.au/Building_Development)). However, should applicant have any further queries regarding their proposal, or clarification of Council’s planning and development controls, they are welcome to contact Council on Monday to Friday during business hours by phoning (02) 9936 8100.

Council’s Planning and Development Advisors can provide further advice prior to the lodgement of a development application. This advice is informal and is normally conducted over the telephone. However, short scheduled meetings (approximately 30 minutes and free of charge) can be held where the applicant would like to discuss a complex issue or has firm plans about what they are proposing.

Where an applicant seeks detailed feedback, a more formal pre-application meeting is also available. These meetings are held with Council’s technical advisors and an executive planner or assessment team leader. A fee is charged for this service (refer to Council’s Fees and Charges Schedule available on Council’s website).

A pre-application meeting form is available from the Customer Service Centre, or on Council’s website ([www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)). At least 10 days prior to the meeting, detailed sketches, plans, photographs and applicant’s assessment of compliance should be made available to Council officers. This will enable a more comprehensive analysis of your proposal and the provision of constructive feedback.

Within 10 days of the meeting, Council will provide minutes to the applicant, highlighting the main issues discussed and the meeting’s outcome.

**Note:** *The outcome provided within the minutes is not an authoritative statement as to the likely success of an application. A determination can only be made following the lodgement of an application and the completion of the assessment process.*



Applicants are strongly encouraged to discuss their proposals with adjoining property owners or occupants prior to the lodgement of a development application. The purpose of this is to determine issues that a neighbour may have early on and to try and have these issues resolved prior to the development application being assessed by Council. Resolving these issues early can help to reduce the amount of time that an application needs to be assessed (i.e. no need to submit revised plans).

### 3.3 APPLICATIONS FOR DEVELOPMENT CONSENT

A development consent is issued to enable building works or the use of land to be undertaken as permitted under the provisions of NSLEP 2013 or any other relevant SEPP. Development consent in most instances will be determined and issued by Council. However, in some limited circumstances, a development consent will be determined by the Minister for Planning or one of their delegates, the Sydney North Regional Planning Panel (i.e. development captured by SEPP (State and Regional Development) 2011), or the North Sydney Local Planning Panel on behalf of Council (i.e. those developments which are required to be referred to the local planning panel by Ministerial Direction under s.4.8(3) of the [EP&A Act 1979](#)).

An application for development consent must be made in accordance with cl.50 and Part 1 to Schedule 1 of the [EP&A Regulation 2000](#). The specific information and documents required to be submitted are reproduced on Council's development application form, copies of which are available from Council's Customer Service Centre or website ([www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)). The documents that are generally required to be submitted with development applications are listed in the following subsections. These lists do not apply to applications for Tree Management Permits, for which specific requirements are set out in Part A: Section 3.5 of the DCP.

Council may waive some of these requirements for some applications, such as a change of use or minor alterations to a building, where the provision of such information is not deemed relevant. Applicants are encouraged to contact Council for more information if they are unsure. Where all relevant documentation is not provided the application may be rejected or put on hold for a limited period until such documentation is supplied.

Development consents issued by Council will last a maximum of 3 years in accordance with Council's policy. This time period may be varied by the provisions of the [EP&A Act 1979](#).

#### 3.3.1 General Requirements

The following documents are generally required to be submitted with all development applications:

- (a) A full **survey plan** of the site, prepared by a registered surveyor which must indicate at a minimum the following information:
  - (i) location, boundary dimensions, site area and north point;
  - (ii) location of any easements and rights of way;
  - (iii) location and uses of existing buildings on the site;
  - (iv) the existing levels of the site in relation to buildings and roads;
  - (v) the location of existing trees and vegetation on the site;
  - (vi) the location and uses of buildings on land adjoining the subject site.
- (b) **Site Analysis Diagram** (refer to Part A: Section 5 – *Site Analysis*).
- (c) **Plans or drawings** generally comprising a site plan, floor plans, elevations and sections, and where relevant subdivision plans. Council also encourages the submission of photomontages to illustrate the proposed development in its context.
- (d) **Shadow diagrams** for all new buildings or significant alterations to existing buildings, showing shadows at 9.00 am, 12 noon, and 3.00 p.m. on 21 June

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(Winter Solstice), 21 September / March (Equinox) and 21 December (Summer Solstice). Some applications within the North Sydney CBD will also require the provision of shadow diagrams at 10.00am and or 2.00pm on 21 June, 21 September/March and 21 December. Shadow diagrams must be certified on the appropriate form by a surveyor, architect, or other competent person.

- (e) **Statement of Environmental Effects** or an **Environmental Impact Statement**, depending upon the type of development proposed.
- (f) A **table of compliance** demonstrating how the proposal complies with the relevant development standards contained within the LEP and DCP.
- (g) An **Efficient Use of Resources Commitment Table** demonstrating compliance with / consideration of (as relevant) provisions within the *Efficient Use of Resources* sub-sections of this DCP.
- (h) A **model**, for proposed residential development containing 4 or more dwellings, or for non- residential development with a floor area of 500m<sup>2</sup> or more.

### 3.3.2 Applications Involving Heritage Items or Conservation Areas

In addition to the requirements within s.3.3.1 to this Part, the following information is required with all development applications relating to heritage items, properties within the vicinity of a heritage item or land within a conservation area:

- (a) All sets of plans clearly indicating, in colour, existing walls to be removed and those to remain;
- (b) Measured drawings of the existing building including elevations;
- (c) A **statement of heritage impact**, or, if required, a **conservation management plan**;
- (d) Where a proposal involves demolition, a **structural engineers report** demonstrating why the building is not capable of restoration or reconstruction;
- (e) Details of external materials, finishes and colour schemes and in the case of heritage items, a list of internal features to be affected by the proposal.

### 3.3.3 Other additional Information for Development Applications

In addition to the requirements within s.3.3.1 to this Part, applicants may be required to submit additional information relating to specific issues to ensure that Council can make an informed decision when determining a development application. The instances when additional information is required are outlined throughout various Sections to Part B of this DCP. The information requirements are set out in the relevant Section. It should be noted that Council has concurrence powers to determine applications otherwise integrated under the NSW [Heritage Act 1977](#).

Where applicable, applicants should supply the following information:

- (a) Any information as appropriate to satisfy the relevant Integrated Development authority for development deemed to be Integrated Development pursuant to s.4.46 of the [EP&A Act 1979](#).
- (b) A **BASIX Certificate** for developments affected by [SEPP \(Building Sustainability Index: BASIX\) 2004](#).
- (c) One or a combination of the following in accordance with Part B: Section 14 - *Contamination and Hazardous Materials* of this DCP:
  - (i) A **Preliminary Investigation**;
  - (ii) A **Detailed Investigation**;
  - (iii) A **Remedial Action Plan**.



- (d) A **Travel Plan** in accordance within Part B: Section 10 – *Car Parking and Transport*.
- (e) A **Hazardous Building Materials Survey Report**, prepared in accordance with Part B: Section 14 – *Contamination and Hazardous Materials* of this DCP.
- (f) Applications for child care facilities also require the submission of:
  - (i) A **Landscape Plan**;
  - (ii) An **Environmental Risk Assessment Report**. The Environmental Risk Assessment Report must be prepared by a suitably qualified consultant and should cover aspects relating to air pollution, land contamination and noise;
  - (iii) Written advice from the NSW Department of Education indicating that no objection, in principle, is raised to the proposal;
  - (iv) A **Hazardous Building Materials Report**;
  - (v) An **Emergency Evacuation Plan** for child care facilities that are located above ground level.
- (g) Applications for non-residential development also require the provision of the following:
  - (i) existing and proposed hours of operation; and
  - (ii) full details of the anticipated volume and frequency of deliveries or collections made to a site; and
  - (iii) the type and size of vehicles likely to be used to make any deliveries or collections to the site.
- (h) Applications for late night trading premises also may require the provision of a:
  - (i) **Plan of Management**; or
  - (ii) **Management Checklist**.
- (i) Applications that involve excavation or ground penetration of greater than 2m in depth and within 25m of a rail corridor require the provision of the following:
  - (i) **Geotechnical and Structural report**; and
  - (ii) **Construction/Excavation Methodology**
- (j) An **Erosion and Sediment Control Plan** prepared in accordance with Part B: Section 17 – *Erosion and Sediment Control* of this DCP.
- (k) A **Waste Management Plan** prepared in accordance with Part B: Section 19 – *Waste Management* of this DCP.
- (l) A **Stormwater Management Plan** prepared in accordance with Part B: Section 18 – *Stormwater Management* of this DCP. The plan must include the:
  - (i) proposed method of stormwater disposal to be used until the inter-allotment system becomes functional.
  - (ii) approximate location of pits and pump-outs and site drainage system.
  - (iii) any site constraints such as trees, services, or structures that may affect the viability of the system.

### **3.4 APPLICATIONS FOR COMPLYING DEVELOPMENT CERTIFICATES**

#### **3.4.1 General Requirements**

A Complying Development Certificate (CDC) is issued for works which satisfy set criteria as outlined in NSLEP 2013 or [SEPP \(Exempt and Complying Development Codes\) 2008](#). These

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certificates can be issued by Council or an independent accredited certifier. The onus is on the applicant to satisfy themselves that their proposal is one that is capable of being dealt with as complying development (i.e. the proposal must comply with all the set criteria). If in doubt, the applicant should err on the side of caution and lodge a Development Application (DA).

An application for a CDC must be made in accordance with cl.126 and Part 2 to Schedule 1 of the [EP&A Regulation 2000](#). The specific information and documents required to be submitted are reproduced on Council’s CDC application form, copies of which are available from Council’s Customer Service Centre, or website ([www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)). The documents that are generally required to be submitted with all CDC applications include the following:

- (a) **Survey plan;**
- (b) **Detailed plans**, generally comprising a site plan, floor plans, elevations and sections, and where relevant subdivision works plans;
  - Where the proposed works involve any alteration or addition to, or rebuilding of an existing building, the general plan is to be coloured or otherwise marked to the satisfaction of the principal certifying authority to adequately distinguish the proposed alteration, addition or rebuilding.
- (c) **Specifications**, to describe the construction and materials of which any building is to be built and the method of drainage, sewerage and water supply;

In addition to the above, the following documents may be required:

- (d) **Fire Safety Statement** detailing existing and proposed fire safety measures;
- (e) **BASIX Certificate** for BASIX affected buildings;
- (f) Detailed **Engineering Plans** for subdivision;
- (g) Where the application involves an alternative solution to meet the performance requirements of the BCA relating to fire safety (refer to cl.130 of the [EP&A Regulation 2000](#)):
  - (i) details of the performance requirements that the alternative solution is intended to meet, and
  - (ii) details of the assessment methods used to establish compliance with those performance requirements
- (h) If relevant, evidence of any certified component, process or design.

**3.4.2 Home Building Act**

In the case of an application for building work that involves residential building work (within the meaning of the [Home Building Act 1989](#)) the following information is to be attached to a CDC application:

- (a) in the case of work by a licensee under the [Home Building Act 1989](#):
  - (i) a statement detailing the licensee’s name and contractor licence number, and
  - (ii) documentary evidence that the licensee has complied with the relevant requirements of the [Home Building Act 1989](#)<sup>1</sup>, or

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<sup>1</sup> A certificate purporting to be issued by an approved insurer under Part 6 of the [Home Building Act 1989](#) to the effect that a person is the holder of an insurance contract issued for the purposes of that Part, is sufficient evidence that the person has complied with the requirements of that Part.



- (b) in the case of work done by any other person:
  - (i) a statement detailing the person's name and owner-builder permit number, or
  - (ii) a declaration signed by the owner of the land, to the effect that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in s.29 of the [Home Building Act 1989](#).

### **3.4.3 Long Service Levy**

Pursuant to s.4.28(10A) of the [EP&A Act 1979](#) a CDC cannot be issued by either Council or an accredited certifier until any long service levy payable under s.34 of the [Building and Construction Industry Long Service Payments Act 1986](#) (or where such a levy is payable by instalments, the first instalment of the levy) has been paid. The local council may be authorised to accept payment.

## **3.5 APPLICATIONS FOR TREE MANAGEMENT PERMITS**

This sub-section only applies to applications to remove, lop, top or prune one or more declared trees or vegetation, as identified under Part B: Section 16 - *Trees and Vegetation Management* of this DCP and where no other development is involved.

The following information must be provided for applications to which this section applies:

- (a) Applicant's name and address;
- (b) Address and legal description of the property on which the subject tree/s are located;
- (c) Consent of all property owners;
- (d) Other approvals necessary (if any);
- (e) Description of proposed work to be done;
- (f) Whether the proposed works involves tree removal, lopping, topping or pruning;
- (g) Site plan illustrating the site, the position of tree/s affected and any buildings in the proximity of the tree/s;
- (h) Statement of environmental impact (i.e. a statement which explains why the tree/s need to be removed, lopped, topped or pruned); and
- (i) Any other information requested by the Council that is relevant to the special circumstances of the case (e.g. an arborist report).

All relevant documentation must be supplied with the application. Where all relevant documentation is not provided the application may be rejected or put on hold for a limited period until such documentation is supplied.