



## The Development Process

### When is a Development Application required?

Before you make any changes to a building or occupy premises, you need to check with Council whether the proposal is permissible and if it is "development", which requires approval.

**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 a work and the demolition of a building.

If development consent is required under the Environmental Planning and Assessment Act, you need to lodge a Development Application with Kempsey Shire Council.

### Exempt and Complying Development

Some minor development which is unlikely to result in adverse environmental impacts or impacts on your neighbours is called "**Exempt Development**". With this type of development, as long as the proposal meets the criteria stated, an approval is not required e.g. a retaining wall not over 600mm high which would **not** interfere with stormwater flow or seepage. Another type of development, which is subject to compliance with stated criteria is unlikely to result in adverse impacts, is called "**Complying Development**". Complying Development may be undertaken, subject to you obtaining a Complying Development Certificate.

Exempt and Complying Developments are listed in Councils "DCP No. 30 - Exempt and Complying Development", which can be examined at the Customer First Centre or viewed on Council's website [www.kempsey.nsw.gov.au](http://www.kempsey.nsw.gov.au).

### What is a Construction Certificate?

As well as obtaining development consent, if you are undertaking any building, structural or subdivision works, you will need to obtain a construction Certificate. A Construction Certificate essentially certifies that the detailed construction plans and specification for the



development are consistent with development consent, and comply with the **Building Code of Australia (BCA)** and other adopted industry standards. This Certificate is required prior to commencing work.

In order to commence your development sooner, you may apply for a Combined Development Application and Construction Certificate at the same time. This is recommended for minor developments such as the erection of a shed, garage and single dwellings.

### Council Codes and Policies you need to check

Council has a range of codes and policies that may apply to various types of development and locations within Kempsey Shire. These include:

- *Kempsey Shire Local Environmental Plan 1987* - this document covers land use throughout the Shire, such as zonings and whether or not types of development are permissible or prohibited in those zones.
- There are also separate Development Control Plans (DCP's) which relate to different types of development and in various areas.
- The State Government also has Planning Instruments that apply to certain lands or types of development that may be environmentally significant or may cause adverse environmental effects. It is recommended that you check with Council.
- Contribution Plans - your proposal may require cash contributions for roads (in rural areas), playing fields, stormwater and/or carparking.

### Preparing your Development Application

Firstly you should contact Council's Customer First Centre to check:

- Whether a Development Application is required;
- Whether the proposal is permissible;

- How Council's codes and policies may affect the proposal. Compliance with relevant codes and policies will greatly reduce processing time.
- Obtain copies of the information necessary to submit a Development Application. This includes the Development Application form.

#### Assessment of Development Applications

Development Applications are assessed taking into account the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.

In determining an application, Council takes into consideration such matters as the provisions of the relevant planning instruments and codes, the likely impacts of the development, the suitability of the site, any submissions and the public interests.

The approval of another Government authority may also be required in some cases e.g. Development within 40m of a waterway. In this regard Council must refer a copy of the proposal to the relevant authority and seek its approval. This development is called Integrated Development. Additional plans and fees will be required.

#### Lodging a Development Application

Council's Application form contains a detailed checklist regarding information required.

The checklist is intended to ensure that Council has sufficient information to determine the likely impacts of a proposal, including compliance with relevant codes and policies. Such information may include, but is not limited to:

1. A completed Development Application form.
2. Four (4) copies of plans showing:
  - Site Plan
  - Elevations
  - Representative cross sections and long sections
  - Floor Plan
  - Landscaping Plan
  - On sloping sites, a contour plan prepared by a surveyor or engineer at 0.5 metres contour intervals.
3. An application fee (based on the total estimated cost of the development).

4. Written authority of all the owners of the land to which the application relates.

#### Modifying a Development Consent

If you have been granted a Development Consent and wish to modify the plans or the consent in a minor manner, you may make an application under Section 96 of the Environmental Planning and Assessment Act 1979.

A Section 96(1) application is made to correct a minor error, misdescription or miscalculation. A Section 96(2) application is made to modify the consent in other ways, such a design change or deletion of a condition of consent. The development as modified must be substantially the same development.

#### Neighbour Notification

In accordance with Council's Notification Policy, some Development Applications are advertised in the local newspaper and adjoining neighbours are notified by letter of your proposed development. A period of 10 days is allowed for any submissions relating to the proposed development, to be forwarded to Council for consideration.

#### Non Compliance with Relevant Codes and Policies

Where a proposal complies with relevant codes and policies, and no objections are received as a result of neighbour notification, Council's Officers have delegation to approve applications. Where objections are received and cannot be resolved, applications will be referred to the Council. This will also apply to non-compliance with Codes and Policies.

You will be advised if the application is to be referred to Council and you may, if you wish, make representation to Council.

**For further information and advice on  
Development Application Process  
Contact:**

Kempsey Shire Council  
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