

Development Approval - General

Getting your development application over the line can be the most challenging part of the development process. Your Investment Property explains how you can fast-track your application by knowing how to deal with the council

The rich, moist smell of earth breaking, the warmth of sun reflecting off tile, the sensation of jagged brick in the palm of your hand – every aspect of your development is vivid in your mind; you see it when you close your eyes, dream of it while you are asleep. You have the land; you've been granted finance – nothing can stop you now, right? Wrong. Once you have finance, the battle has only just begun as now it is time to deal with your local council.

For the lucky few, dealing with council can be a straightforward process, but it can become the bane of your property developer existence. So before you start navigating your way through the myriad of documentation needed to develop land, it is wise to understand what is required and why.

In Australia, housing is a highly regulated industry, and that means sometimes you are going to have to jump through hoops to get your project off the ground. Anyone looking to develop residential property in Australia must comply with legislation from all levels of government, but mostly from your local council. This is because council is usually required to implement state and federal building regulations at a local level, and in doing so has the authority to develop local policies that relate to development.

In a nutshell, that means council will determine if your plans meet the criteria, zoning requirements, laws, policies and legislation of the local area, and, more importantly, it will decide whether you get the OK to go ahead.

It can sound a bit daunting, but do not despair. There is a pathway through the council briar patch, and Part Two of our development step-by-step guide will take you through the process and have you out the other side and unlocking the door to your new development in no time.

The Development Application/Assessment (DA)

What is a DA? A DA is a formal request to build or carry out development within a Local Government Area (LGA). A DA is made up of forms and documents that show the merits of your project and how it adheres to local, state and federal building requirements.

This includes:

- Site plans
- Architectural plans
- Independent reports
- A statement from you as to whether you have made any political contributions to local council.

What is a construction certificate?

You will also need to lodge a construction certificate application that, once approved, will allow your builder to start construction. This application relates to plans that will be used for building your development and needs to be approved by council or a private certifier before construction can begin. An application for a construction certificate will usually be lodged after your DA is approved, but in some cases can be submitted at the same time.

How do I submit my DA?

Your path to becoming a developer will allow you to make many new ‘friends’ at local council, so don’t be surprised if you find yourself on a first-name basis with administration staff as you will probably be making quite a few calls. But within council there is one group of people you will be dealing with most of the time:

Development Advisory Unit/Planning Unit

The Development Advisory Unit (DAU), or local equivalent, is the first stop before you even think about filling out forms or lodging a DA. Made up of senior staff experienced in development planning, the DAU exists to identify potential problems and solve them before you lodge your DA. This will go a long way in avoiding delays, which can become frustrating and often expensive. There are two ways to speak to the DAU: either by phone or face-to-face.

Face-to-face appointments are free, and by going in you can speak one-on-one to the council’s town planners and ask any questions you might have. You can also take your plans with you and be advised on any problems that might arise.

In every state of Australia, developments that include blocks of units, apartments and/or villas require a ‘multiple-dwelling’ DA to be submitted before you break ground. Almost all local councils have a similar DA form, but each LGA can have its own variations and it is imperative that you check with your local council to find out what is specifically required for your project.

But in most instances you can expect to need:

1. A filled-out application form

You can download these forms from the Planning Department page of your local council’s website.

2. An owner’s consent form

If you are the landowner, you will need to sign this form. If you are leasing the land, the owner will need to provide consent for your development, no matter what your plan is. These forms are also available to download from your council’s Department of Planning webpage.

3. A Statement of Environment Effects (SEE)

This is a document that demonstrates how your project complies with local, regional and state building and planning requirements. It primarily covers the design, footprint and environmental impact of your project, but in some cases additional information is required, depending on where your land is located.

In most cases a SEE will require:

- A description of the site and adjacent areas, including vegetation
- How the site will be used and what it was used for previously
- A list of any existing structure
- A detailed description of your plans
- Any possible impacts to the environment
- How these impacts have been identified
- Steps that will be taken to lessen any expected environmental harm

4. Site plans

Site plans show your project drawn to scale and how it will fit on the lot. They include all framework, major construction and pieces of infrastructure, including decks, fences, drains, retaining walls, walkways and driveways, pool and patios. These plans will usually be drawn up by an architect, draftsman or engineer.

5. Floor plans

The floor plan depicts the layout of rooms in your dwelling/s, how big each one is, and what room goes where. This plan shows how many bedrooms, bathrooms and other rooms your dwelling will have, as well as the location of doors and windows. These plans will also usually be drawn up by an architect, draftsman or engineer.

6. Elevations and sections

The elevation shows the exterior of your development. The most important part of the elevation is the shape and style of the property, whether it is single storey or multistorey, tile or tin roof, brick or weatherboard; where access areas are; is there a veranda, and so on.

7. Electricity Act Declaration Form

In some states, including SA, DAs must include an Electricity Act Declaration stating that any proposed dwelling or building will not be constructed within a specific setback distance from power lines.

8. Additional documentation

Depending on your project and the location of your land, council may require some additional information. "If your land has any of the following issues, your project may become an 'Integrated Development', meaning you will require consent from organisations outside local council," explain director of DBCS David Broyd and Monteath & Powys director Steve Barr.

You can find out if your land is in a bushfire-prone area by checking with council or your state fire service. Should your land be located in a bushfire-prone area, Broyd says you will need to contact a bushfire-accredited consultant to analyse any risk against documentation provided by the Rural Fire Service for bushfire protection.

"A certified bushfire consultant will assess the proximity of your boundary to the location of a potential fire hazard; the likelihood of existing vegetation catching fire; the slope of land, wind direction, and what you can do to limit the risk to your dwelling. A consultant can be found online and should cost between \$2,000 to \$5,000," Broyd advises.

Has my land been affected by flooding?

Most councils have an interactive map on their website that allows you to key in an address and see if an area is classed as flood-prone. If so, you may need to purchase a flood certificate. Broyd advises that if the location is in an area affected by the 1% flood level, meaning the average recurrence of the site flooding is once in every 100 years, then you will need the help of a flood or hydraulic engineer. "They will assess where a 1% flood could impact the site, and then the council may require the design of the building be half a metre above that level to make it habitable," Broyd explains.

The flood certificate, which advises the levels required for the dwelling, can be provided by council for about \$200, while a private consultant can cost more than \$2,000, depending on the size of the land.

Is my land in a heritage conservation area, or in the vicinity of a heritage item?

A heritage conservation area is any area deemed worthy of preserving. This could be due to a collection of historically significant buildings; historical subdivision patterns; its reflection of particular historical periods, and so on.

Barr says a council's Local Environmental Plan will list all heritage items in the area and includes a clause stating that should your land be affected you will be required to conduct an assessment of

heritage impact. That will require a consultant to assess what you should plan to do and how any heritage-listed items may be affected.

The price of a heritage consultant can vary greatly, depending on what the heritage item is and whether it is a physical or cultural item.

Is the sewer already connected?

Local council will determine whether you are required to connect to an urban sewer or construct an onsite effluent disposal, which is more likely in a rural area.

Barr says the cost of connecting to the sewer will be determined by the area's governing water authority, or in a rural area the council's sewer and water department will advise on the process and price to connect. In an urban area with an existing sewerage system, you will need council approval, and building a sewer can cost about \$150 per metre to install.

Are there significant trees on my land?

All trees present on your land must be identified by species as part of your SEE. Should some of these trees be identified by council as needing to be retained, you will have to incorporate them into your design plans. Trees identified to be retained must be protected in accordance with Australian Standard AS 4970 – Protection of Trees on Development Sites, and you may be required to submit an independent arborist report as part of your DA.

Should any of these above scenarios affect your application, you will usually be referred to a state department, such as the Office of Environment and Heritage, Department of Primary Industries and Roads and/or Maritime Services, for further assistance.

What happens after I submit my DA?

Once your DA is submitted, council will begin its assessment process. Ben Thrower, principal planner at PLACE Design Group, says that while each application is unique, most applications for small developments are likely to be circulated internally to council's civil engineering and architectural officers.

"These officers will check that council's existing infrastructure services, like sewer, water and road networks, can accommodate the demand generated by the development, and that the design appropriately addresses the planning scheme provisions," he says. "More than likely you will have no direct input or liaison with the subject officers unless there is a service capability deficiency in the existing network and/or a design non-conformance."

However, Thrower advises that if the site is subject to other planning scheme overlays such as ecological, heritage or natural hazards overlays, your application will then be distributed to corresponding specialist officers within council or outside governing organisations.

How long will it all take?

The length of time it takes to assess a DA varies depending on the complexity of the project and where it is going to be built. The good news is that all councils have a maximum time period in which they are required to respond to a DA, but the bad news is that if your application is not straightforward and requires further site inspections, reports and permissions, approval time could begin to drag out.

Victorian Department of Transport, Planning and Local Infrastructure spokesperson Emma Gumbleton says state government regulations stipulate a timeframe of 60 days in Victoria. "After

that you can refer your application to the Victorian Civil Administrative Tribunal if council fails to make a decision within 60 days of receipt. If you are asked for further information, it is 60 days from the date all the information is received," she advises.

Who can help me?

Submitting your DA can be confusing, especially if it is your first time. But help is available, and on the off chance that the circumstances of your application are not clear cut, it may end up being cheaper to pay an advisor than to try to do it all yourself. Following are some professionals that you may want to have on your side.

Draftsman /engineer

A draftsman or engineer can supply you with professional plans for your project that you can submit to council along with your DA.

Best found: Online, word of mouth, LinkedIn, Yellow Pages, council recommendation.

Cost: A number of factors could influence price – for example topography, design constraints, quality of product and council requirements – but this is nominally in the range of \$5,000 to \$15,000, excluding detailed design and documentation, tender drawings, construction drawings and so on. Many design consultants will work on a percentage of projected construction cost, usually between 6% and 12%.

Town planner

A town planner can help you do most of your due diligence and also assist with filling out forms and reports. Should you need to go to court for any reason, a town planner can also represent your interests and project.

Best found: Online, word of mouth, LinkedIn, Yellow Pages, council recommendation.

Cost: \$3,000–\$4,000

Hydraulics engineer

A hydraulics engineer can provide flood reports should your land be located in a flood-prone area.

Best found: Online, word of mouth, LinkedIn, Yellow Pages, council recommendation.

Cost: \$2,000–\$5,000.

Stormwater engineer

A stormwater engineer can provide drainage and stormwater solutions for your land parcel.

Best found: Online, word of mouth, LinkedIn, Yellow Pages, council recommendation.

Cost: A number of factors could influence price, including topography and design constraints, but nominally it could be in the range of \$3,000 to \$7,000.

Geotechnical engineer

A geotechnical engineer can provide soil assessments and reports for your land parcel.

Best found: Online, word of mouth, LinkedIn, Yellow Pages, council recommendation.

Cost: A number of factors could influence price, including topography, constraints, size of property, and measurements required, such as soil type, pH, topsoil depths, acid sulphate soils and contamination, but expect to pay between \$4,000 and \$5,000 for drill rig sampling, testing and reporting.

Surveyor

A surveyor will provide detailed survey identification of property boundaries, contours, vegetation, infrastructure and structures on site for use by design and engineering consultants, and they will prepare plan of survey for registration in the titles office.

Best found: Online, word of mouth, LinkedIn, Yellow Pages, council recommendation.

Cost: A number of factors could influence price, including topography, design constraints, size of property and extent of survey, but expect to pay between \$3,000 and \$10,000.

Most common hold-ups for DAs

While the above information will go a long way in assisting you in the pursuit of a successful DA outcome, sometimes things just don't go as planned.

Graham Clegg, director of GW Clegg & Company, Planning and Environment Consultants, says most hold-ups stem from applicants failing to submit a correctly completed application.

He says the most common mistakes people make on their application are:

1. Not ensuring that the correct landowner details are provided. For most councils this is the person/company listed on the rates notice and no other derivation of the name will suffice.
2. Missing deadlines for complying with assessment timeframes, which may mean an application has to revert to a previous stage in the assessment process or may even lapse.
3. Not being aware of all site constraints, which can result in design changes during the assessment process. This can cause not only changed plans but also changes to supporting documentation and consultant reports. For example, prior to lodgement, not knowing or taking into account the fact that part of a site is required for council road widening purposes may have significant repercussions on site layout and design of buildings.

Clegg advises to be as up front and transparent as possible when completing an application, because any missing information will only result in delaying the process. "Choosing to not include information when you are aware that it is required by council, as a way to save either time or money up front, and hoping that it may be overlooked, is a mistake," he advises. "Chances are it won't be overlooked."