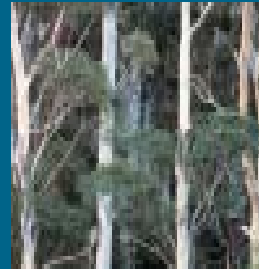
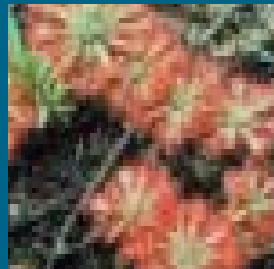
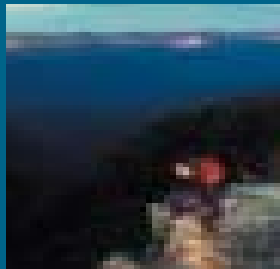


Land Use Application Notes



This notes booklet should be read before you complete the Land Use Application form



NOTES

Application Guide

Your Notes

These notes are designed to help you complete your application.

Developing land in the Blue Mountains is a complex process. Before preparing an application you need to be fully aware of the limitations of the site and any regulations that may affect your proposal. It is important to understand the Local Environmental Plans (LEP) and Development Control Plans (DCP) which apply to your area, your property or your type of development and check Council's requirements carefully to ensure that your proposal complies with the controls. This analysis must be completed prior to the development of your proposal and will help to determine what type of supporting material is required.

Better Living DCP contains all the relevant issues, design principles, performance criteria and standards for development. Copies of Council's LEPs and DCPs are available for purchase at Council's offices or can be downloaded from Council's website at www.bmcc.nsw.gov.au.

Armed with this information, you can then prepare your application.

Need help?

If you are unsure of the restrictions or any other limitations on the land, Council offers a preliminary advice service. This service involves a site meeting and a written report. A fee is charged.

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Do you need an application?

If the proposed building work is minor, check to see whether it is **exempt**. For example, some open decks and certain types of fences /pergolas whilst they must be built to the standards required by the Building Code of Australia, do not require approval. To determine whether the proposal is exempt you need to read the Development Control Plan (DCP) 'Exempt and Complying Development'. A copy is provided under 'City Development' on Council's web site - www.bmcc.nsw.gov.au.

The application form

1 Property details

This section asks you to provide details on the location and description of the land, its present use and the type of work proposed. The Lot, Section and DP Number are easily found on the Certificate of Title or on a rates notice. Note: not all properties have Section Numbers.

Provide a description of the existing and proposed use of the land and indicate the type of work that best fits your proposal. If the proposal involves building, earthworks (such as landscaping) and demolition all these boxes should be ticked. Estimate the value of works (include GST) or if it is a subdivision, indicate the number of existing/proposed lots.

2 Applicant details

The applicant is the owner or agent chosen by the owner of the land to act on their behalf in the management of their application including amendment to, or withdrawal of, the application. All correspondence and communication is directed to the applicant (ie., until a final Occupation or Subdivision Certificate is issued).

3 Type of application

Complying development

If your proposal is not 'exempt', then the next thing to check is whether it meets the criteria for **complying development**. This category of development seeks to streamline the application process by providing a single certificate that covers pre-defined development conditions as well as meeting the structural standards required by the Building Code of Australia. The criteria to determine whether an application is complying development is contained in the policy 'Exempt and Complying Development'. Complying development applications can be issued by Council or by an accredited private certifier. A complying development certificate lapses after 2 years.

There are 3 main types of development applications. They are 'local' (which can include designated or advertised development), 'integrated' and 'State significant' development.

Local development

The majority of applications in the Blue Mountains are **local development**. It only becomes a **designated development** if the proposed works relate to industrial, agricultural and waste management industries that have significant potential environmental impact. See Schedule 3 of the Environmental Planning & Assessment Act 1979, for a complete list of designated development. **Advertised development** applies if the proposed works relate to childcare centres, hospitals, churches, clubs, hotels and residential flat buildings within certain zones as defined in Council's Local Environmental Plans. Development consents are usually valid for 2 years.

A **staged development** consent can be applied for. For example, a large scale development may be completed in stages.

Integrated development

Some development proposals, need other kinds of approvals (eg., licences, permits). A proposal is known as **integrated development** if you need development consent and one or more approvals. For example, a building that is subject to a heritage conservation order must also have a permit issued by the NSW Heritage Council. You still need to apply direct to the State authority for the issue of a licence/permit, however early advice of their approval is given in the integrated development consent. The following questions should help you to determine whether the proposed works require a licence/permit and if so, the Act under which those approvals are required.

NSW Department of Primary Industries

- Do you want to carry out aquaculture? Does your proposal involve channelisation, relocation or realignment of waterways?
If yes, you need a permit under s144 of the Fisheries Management Act 1994.

Heritage Council

- Does your development involve a building, a place or land that has a permanent conservation order, an interim conservation order or an interim heritage order protecting it, or which is listed on the State Heritage Register?
If yes, you need an approval under s.57 of the Heritage Act 1977.

National Parks & Wildlife Service

- Will it destroy, damage or otherwise harm an Aboriginal relic that is known to exist on the land you want to develop?
If yes, then you need an approval under s.90 of the National Parks and Wildlife Act 1974.
- Is the proposal designated development?
If yes, you are likely to need a licence under s.47 or s.48 of the Protection of the Environment Operations Act 1997.

Environment Protection Authority

- Will the development cause the pollution of water?
If yes, you will require a licence under s.43(d) of the Protection of the Environment Operations Act 1997.

Department of Water & Energy

- Is the development within 40 metres of a stream, river, lake or lagoon?
If yes, are you going to excavate the land, remove material from the land or do anything which will obstruct or detrimentally affect the water flowing in a stream, river, lake or lagoon? If so, you may need a Controlled Activity Approval issued under the Water Management Act 2000.
- Do you propose to build pumps (or the like) to obtain water, or build pipes (or the like) to carry water from a natural watercourse.
If yes, then you will need a permit under s.16A of the Water Management Act 2000.
- Do you propose to sink a bore or enlarge, deepen or alter a bore?
If yes, you will need a licence under s.116 of the Water Management Act 2000.

Roads & Traffic Authority

- Will the development affect a public road, a Crown Road, a highway, a main road, a freeway or a tollway?
If yes, you will need a consent under s.138 of the Roads Act 1993.

Rural Fire Service

- Is the development a subdivision or school, child care centre, hospital, hotel, motel or other tourist accommodation; or, Housing for Older People or People with a Disability (SEPP5); or, a Group Home (SEPP9); and on designated bushfire fire prone land?
If yes, you will need authority under s.100B of the Rural Fires Act, 1997.

State significant development

State significant development is declared by a state or regional environmental plan (SEPP or REPP). Applications for State Significant development are made direct to Planning NSW, and as such, this type of development is not included in the application form. The criteria for State significant development is listed in the Environmental Planning and Assessment Act 1979 and its Regulations.

Construction certificate

Long service levy payments must be made before the issue of the construction certificate.

Every development that involves building, engineering or earth works will require a construction certificate. The plans and specifications submitted with a construction certificate application must contain enough detail to ensure that the works comply with the relevant standards and are consistent with the terms of the development consent.

Construction certificates can be issued either by Council or by an accredited certifier. If you choose Council, then the construction certificate can be applied for, and issued at the same time as your development consent.

Construction Certificates are valid for the life of the development consent.

Owners must ensure that Home Owners Warranty Insurance is obtained for contracted works over \$12,000.

Owner/Builder permits are required for all work valued between \$5000 to \$12000.

For works over \$12000 Owner/Builders will need to attend a course prior to the issue of a permit.

Call 133220 for further information.

Appointment of a Principal Certifying Authority (PCA)

The role of the PCA is to ensure that the development is carried out in accordance with the approved plans, specifications, any conditions listed in the development consent or complying development certificate and certifies that the construction has been built in accordance with the Building Code of Australia or any other relevant standards.

It is the owner's responsibility to appoint a PCA. This can be Council or an accredited certifier, but once chosen, must remain the same throughout the construction process.

It is in the interests of all owners to sight the inspection results / compliance certificates, regardless of whether you use Council or an accredited certifier. If the proposed works are complying development the PCA must also advise adjoining owners in writing at least 2 days before construction commences on the site.

If you tick the box on the application form nominating Council as the PCA, you will need to complete a PCA Appointment and Service Agreement form. With Council as your PCA, inspections can be arranged with 24 hours notice. Results are issued at the time of the inspection. On completion of the development an Occupation or Subdivision Certificate will be issued, if the development complies with all relevant standards and conditions of consent. For an additional fee, an Interim Occupation Certificate can also be issued to allow early occupancy of a building.

If you choose an accredited certifier as your PCA you are obliged to notify Council in writing of who this is at least 2 days before work starts.

An Occupation or Subdivision Certificate cannot be issued if the development does not comply with the consent or where mandatory inspections have not been carried out.

Other approvals

There are a number of other activities that can only be carried out if you have approval from Council. A full list of these activities is included in s.68 of the Local Government Act, it includes the approval to install /operate an amusement device; use as a place of public entertainment; place a waste container in a public place; install and operate a sewage management system; install a solid fuel heater etc.

If you identify one or more of these activities you will need to tick the appropriate box. You can also apply for any of these approvals as part of your development consent. You will still need to tick the appropriate boxes however, the approval will be issued as part of the development consent.

Roads Act approvals

Approval under the Roads Act must be obtained prior to any construction works within Council's road reserve or other Council controlled lands, or when opening Council's roads or footpaths. Construction works may involve accessing services in road reserve, vehicular access, construction of unformed roads, footpaths, stormwater drainage, kerb and guttering etc. A separate form must be submitted, together with the supporting documentation, for these applications.

If you are proposing to construct a driveway you will need to obtain **driveway levels** for the road reserve. This is to ensure that pedestrian, vehicle access and stormwater is well managed. **Driveway levels will be advised as part of the development consent.**

Where a development is **opening a road or footpath** for the laying of services such as water, power or gas, you will need to provide details of the surface type.

NOTE: In signing the application form the applicant accepts full responsibility for ensuring the safety of the public during construction including the provision of barricades, warning signage, lighting, safe passage for pedestrians and for full damage caused to the road reserve and any public utility service by the construction.

Restoration works must be completed in accordance with Council's standards. Further information on restoration fees and standards can be obtained from our Katoomba and Springwood offices.

4 Building details

If you are applying for a complying development certificate or a construction certificate this section must be completed. The information is required by the Australian Bureau of Statistics and contributes to key economic indicators for the country. If there are 2 or more different material types used, then please nominate the primary material type.

5 Owner / applicant details

It is a requirement that all owners of the property sign the application. If the owner of the property is a company, then a director or company secretary must sign the application. Where this is the case, then the Australian Business Number (ABN) is also required. If the property is within a strata then the consent of the strata management is necessary.

The statement acknowledges that the owner will make good any damage to public areas during construction. If damage occurs then it must be restored to Council standards. The restoration work can be completed by a contractor or by Council.

Applications will not be accepted unless they have all owners signatures.

The applicant is the owner or agent chosen by the owner of the land to act on their behalf in the management of their application including amendment to, or withdrawal of, the application. All correspondence and communication is directed to the applicant (i.e., until a final Occupation of Subdivision Certificate is issued).

Upon determination of the application, the determination and plans will be forwarded to the applicant, unless written advice is provided by them for another party to collect this documentation from Council. A copy of the determination will be forwarded to the owner.

6 The application process

The application process is primarily established by legislation and whilst it can vary according to the type of works proposed and the approvals required there is a fundamental process.

Firstly, check if the proposal needs approval. If so, is the proposed development eligible for a simpler approval process - 'complying development', if not, then a local or integrated development application is required. If the proposal involves any engineering or building construction works you will also need to apply for a construction certificate.

You may nominate to apply for a construction certificate with your development application. This decision may impact on the level of detail shown on the plans.

You will also need to determine who will issue compliance certificates indicating that the work is being completed in accordance with the development consent and the plans ie., appoint a Principal Certifying Authority. A diagram of the application process is outlined on the following page.

7 What's next

All applications made to Council are acknowledged in writing and a reference number and contact person given to assist enquiries.

Generally, development applications are determined within 40 days, however delays can be experienced where supporting material is not fully provided. Further information may also be required as a result of a site inspection. Where it is necessary, a referral may be sent to state government authorities for comment. In the case of integrated development this referral will seek their approval to the issue of a licence or permit.

An important part of the process for development applications is the notification of affected owners. This is completed by a mail out and depending on the proposal the application can also be advertised in the local paper. **To assist in the notification process an A4/A3 copy containing the site plan, elevation and section plans is required from the applicant.** Applications in notification will also be shown on Council's web site at www.bmcc.nsw.gov.au

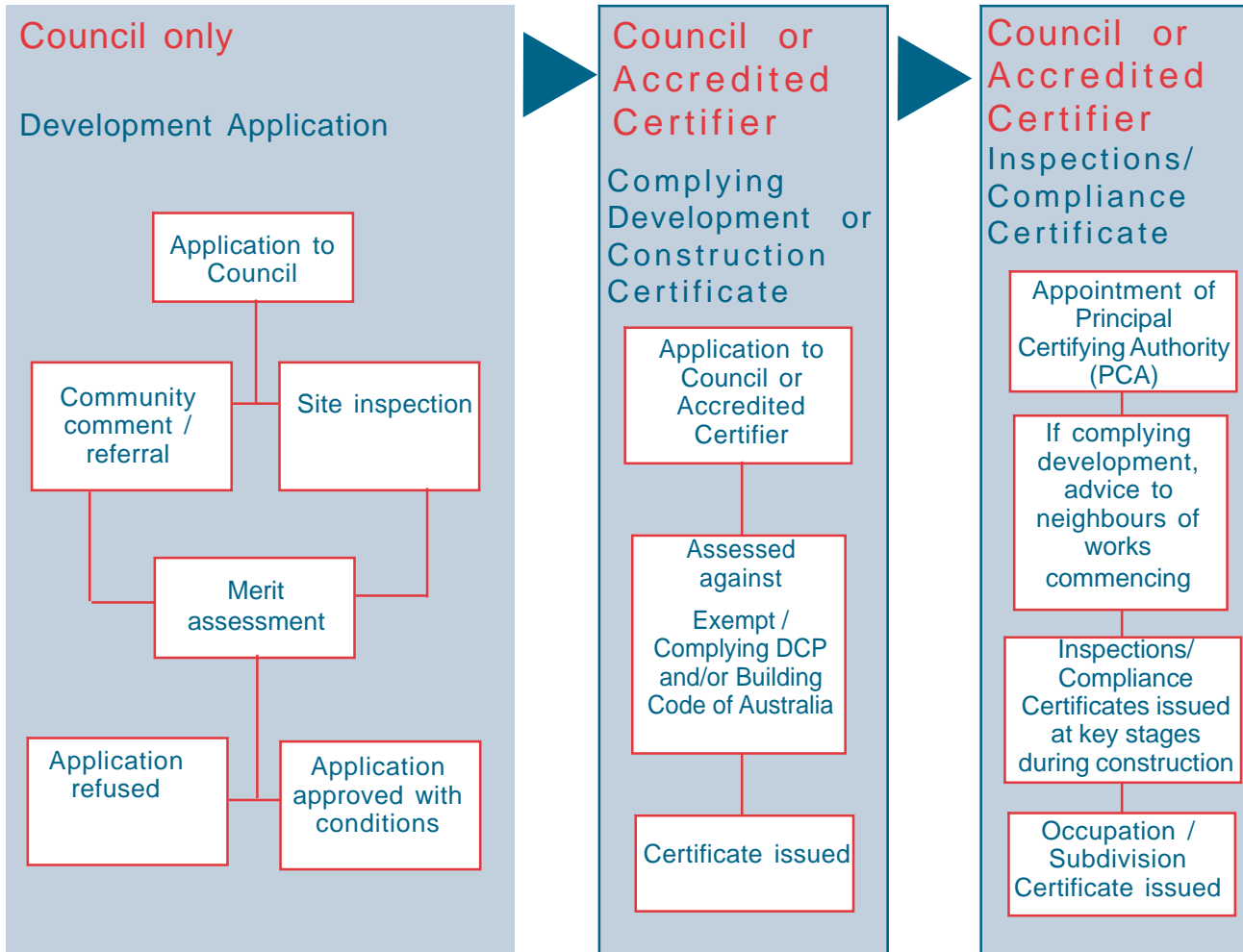
On completion of the assessment, most determinations are issued under delegated authority though sometimes applications are called to a full meeting of Council where it is in the public interest that the development be debated. The development consent is conditional and these conditions must be met during the construction life of the project. In some instances, a deferred commencement consent may be issued. Once the information required by the deferred commencement is satisfied you must apply for an operational consent before work can begin.

If a development consent has been issued, the construction certificate application will generally take 7 days to determine.

If Council is chosen as the PCA, then the development consent and / or the construction certificate will also include details of the inspections required.

The application process

Land Owner Have you considered all the issues raised in the planning instruments?



Compliance certificates can be issued at any stage throughout the application and construction process.

8 Quality of plans

Four copies of the plans must be submitted with the application for single residential development.

Six copies are required for large scale, advertised, designated, and/or integrated development. One of these copies can be a base plan with transparency overlays. Plans must be drawn in ink. *Freehand or single line drawings will not be accepted.*

Include the following on all plans and documents lodged with an application:

- Applicants name.
- Lot number, section number, DP number, shop/flat number, street/road name, town or locality.
- Scale.
- The position of true north.
- Draftsperson, name, date and reference number.
- Additions/alterations - to be highlighted in colour.
- Buildings to be demolished - to be in outline.
- Contractors name/s and licence number/s (if known).

An A4/A3 copy containing the site plan, elevation and section plans are required.

9 BASIX certificate

The Building Sustainability Index (BASIX) is a web-based planning tool designed to assess the potential performance of residential buildings against a range of sustainability indices.

A BASIX Certificate identifies the sustainability features required to be incorporated in the building design. These features may include sustainable design elements such as recycled water, rainwater tanks, AAA-rated showerheads and taps, native landscaping, heat pump or solar water heaters, gas space heaters, roof eaves/awnings and wall/ceiling insulation.

Every development application for any residential (dwelling or multi unit) development must be submitted to Council with a BASIX Certificate, and to alterations and additions work on existing dwellings where the estimated construction cost of the work is more than \$50,000. BASIX also applies to installation of swimming pools (or pool and spa) with a capacity greater than 40,000 litres.

The applicant is required to submit the BASIX Certificate with the Development Application or Complying Development Certificate application. The plans and specifications must also identify the BASIX commitments which will be checked by a professional building certifier during construction. Council will require applicants to submit amended plans and specifications consistent with the original BASIX certificate OR update the BASIX Certificate to be consistent with commitments that match the rest of the application.

Applicants can generate the BASIX Certificate only on the NSW Department of Planning' BASIX website: www.basix.nsw.gov.au. For more information, phone the BASIX Help Line on 1300 650 908.

10 Further information

Fee quote

Quotes on fees can be obtained over the telephone or at our Katoomba / Springwood offices.

Long Service Levy

The NSW Government has placed a levy on all building and construction work in NSW. The levy is payable on work costing \$25,000 or more. Fees can be paid direct to the Long Service Levy Payments Corporation or to Blue Mountains City Council who acts as an agent for the Corporation. Owner Builder's and non profit organisations may seek an exemption of up to 50% of the levy payable. For further information call 131441.

Variations during assessment of the application

To vary your proposal once an application is lodged, you need to lodge a the form **Variation Prior to Determination** together with amended plans and details of the variation for Council's consideration. A fee may be charged.

Amending plans

To change the plans or a condition on the development consent you need to lodge an application to amend the consent and submit details in support of the proposed changes.

Amended applications follow the exact same process as the original development application. Where the amendment changes any of the external structure, it will be readvertised to neighbours. Fees are payable, and depending on the changes proposed, a new Construction Certificate may also be required.

Review of Determination

In some cases, an applicant may request Council to review the development determination. An application needs to be lodged with Council and fee paid for Council to review the determination. Advice will be given in writing of the outcome.

Extension of time

Development approvals from Council usually have a life of up to 2 years. This may be extended by a further year provided that an application is made at least 2 months prior to the end of the consent period. After a consent has lapsed, a fresh application is required.

Withdrawing or cancelling an application

Only the applicant can withdraw an application prior to the determination being made. Where this is the case and depending on the level of assessment undertaken, some of the fees may be refunded. Applications can also be cancelled after the determination, for example: the development may no longer be proceeding. Some fees may also be refundable. Requests to withdraw or cancel an application must be made by the applicant. Any fees refunded will however be returned to the signatory of the original cheque. Where a cash payment has been made this will be returned to the name on the receipt or where this

Send your application
Blue Mountains City Council
Locked Bag 1005
Katoomba 2780

or lodge at our Katoomba or Springwood office

KATOOMBA: 2-6 Civic Place
SPRINGWOOD:104 Macquarie Road

Other related forms

- Land Use Application form
- Statement of Environmental Effects
- Application for Land Use Advice / Information
- PCA Agreement
- Variation Prior to Determination
- Application to Modify, Extend or Review a Consent or Certificate
- Roads Act Approval
- Vehicular Access application
- Road Opening Permit

Further information

Information on the Home Owners Warranty Insurance can be obtained direct from the Department of Fair Trading telephone 133220.

All other enquiries and payments (including Long Service Levy) can be directed to our Katoomba office at 2-6 Civic Place or the Springwood office at 102-104 Macquarie Road. Telephone (02) 4780 5000.

Copies of all Local Environmental Plans, Development Control Plans, guides and application forms are located on Council's web site under 'City Development' at www.bmcc.nsw.gov.au The web site also contains maps and details of applications being notified for public comment.