

Guiding Development — Practice Notes

What are the different types of development application?

The purpose of this practice note is to outline the different types of development application (DA) required under the Environmental Planning and Assessment Act 1979 (the Act) and how they fit within the new classification introduced with the major amendments in 1998.

The three categories of development

The *Environmental Planning and Assessment Amendment Act 1997* introduced a broad definition of 'development', covering building, demolition and subdivision (previously the subject of separate legislation). It also introduced categories of development, as shown in Figure 1, based on the Explanatory Note to the Bill.

This practice note is concerned with the second category (shown in the middle column below) — development which requires consent. A description of the categories is the subject of a separate practice note.

In simple terms, development requiring consent is split into two sub-categories:

- State significant development, where the Minister is the consent authority
- local development, where the council is the consent authority.

The role of LEPs, SEPPs and REPs

While the Act introduces the categories, it is the detailed provisions of local environmental plans (LEPs), State environmental planning policies (SEPPs) and regional environmental plans (REPs) that tell you whether you need to submit a development application.

Development that does not require Development Consent		Development that requires Development Consent		Prohibited Development
No Consent under Part 4 but Part 5 of the EP&A Act applies	Exempt Development not subject to Parts 4 or 5 of the EP&A Act	Local Development	State Significant Development	(No Sub-categories)
		Integrated Development		
		Designated Development		
		Complying Development		

Figure 1 Classification of development

Source: Explanatory notes to Environmental Planning and Assessment Amendment Bill 1997

Local development

For local development, details are found in council's LEP, usually in the zoning provisions. Using the three categories, zoning tables specify types of development (such as an industry or medium density housing) that need a DA — with forms to complete, plans to be drawn — so that council can assess and determine the application. In some instances the need for a local DA can be specified in a SEPP or a REP.

State significant development

State significant developments can be declared in a SEPP, REP or in the NSW *Government Gazette*. For example, SEPP 56 declares a number of Sydney harbourside sites to be State significant development. In addition, the Minister has the power to call in specific DAs, including development prohibited by an LEP.

Integrated development

Local or State significant development can also be integrated development where, as well as requiring a DA, the proposal also requires a specified permit or approval from a State agency. Relevant State agency approvals covered by this classification are listed in section 91 of the Act, for example, DAs that also require a licence from the Environment Protection Authority or a fisheries permit. (See Practice Note: *What are integrated development applications and how are they handled?*)

Designated development

Local and State significant development can also be designated development when, as well as requiring a DA, the development proposal is listed in the Environmental Planning and Assessment Regulation 1994, at Schedule 3. This list contains large-scale, potentially hazardous, noxious and offensive uses such as chemical works, coal mines and waste management facilities.

If a proposal is designated development there are additional submission requirements (especially an environmental impact statement), State agency involvement, public consultation and a third-party right of appeal on the merits of the proposal to the Land and Environment Court.

In combination, it is possible for a proposal to be categorised as integrated, designated, State significant development.

Complying development

Complying development, while legally a subset of local development, has a separate approval path and may be wholly assessed by private sector accredited certifiers (see Practice Note: *Complying development*).

Other types of DA

A DA is also required when an applicant wishes to develop a site which enjoys existing use rights. This is a legal term to describe buildings and land uses that were legally established under previous planning controls and may continue to operate despite being prohibited by the current controls. A DA must be lodged if the applicant wishes to alter, rebuild or change the use.

DAs by or on behalf of the Crown are treated differently from other DAs (see Practice Note: *Development applications by the Crown*).

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