

How to gain approval for a New Dwelling House



A *New Dwelling House* is the term that the planning and building professions commonly refer to when they describe the development of a new house on one parcel of land. *Dwelling House* is defined under Tweed Council's primary legal control document, the Tweed Local Environmental Plan (LEP) 2000 as "a building containing one but not more than one dwelling".

Before You Start, Make Sure Your Property is Correctly Zoned

It is firstly very important to find out the zoning of your property. The zones are identified in the Tweed LEP 2000.

New Dwelling Houses are permitted to be built in established residential areas, but there are some areas where the zoning may not permit them.

There are also instances, particularly in rural-zoned areas, where prior use or subdivision patterns provide an entitlement or an existing use right to develop a new dwelling house, however it is recommended that you gain professional advice prior to making any substantial investment decisions.

You can easily find out the zoning of your property, as well as view a comprehensive mapping of planning and environmental constraints (such as aircraft noise, bushfire and flood prone land, acid sulphate soils and sensitive environmental and coastal impact areas) by clicking on the 'Property Enquiry' service through Council's web site, which is located on the left hand side menu of the Planning/Development/Building web section.

A document referred to as Section 149 (2) Certificate can be purchased from Council to further verify these basic zoning and constraint details.

What Approvals from Council do you need?

Complying Development

It may be possible to avoid lodging a Development Application (DA) for a new dwelling house.

The State Government's State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, also known as the Code's SEPP, took effect from 27 February 2009. The Code provides for standardised development controls for exempt and complying development for certain residential dwelling forms (new and existing single dwelling houses) across the state.

A copy of the SEPP and accompanying information can be viewed through the Department of Planning's web site www.planning.nsw.gov.au.

The Codes SEPP co-exists with Tweed Shire Council's existing exempt and complying development controls in Section A10 of the Tweed Development Control Plan 2008 (262kb)

Complying Development is considered to have relatively low environmental impact, but requires a less onerous approval is called Complying Development.

How to gain approval for a New Dwelling House continued ...

Complying Development does not require a DA, but is still the subject of a separate Complying Development Certificate process, which can be applied for through either Council or a private accredited certifier.

Council has introduced a great, new fee-for-service for more detailed pre-lodgement enquiries for proposals to lodge Complying Development Certificates (CDCs) under the Exempt and Complying State Environmental Planning Policy (SEPP), or Council's Development Control Plan (DCP). For a fee of \$90*, Council officers will investigate and provide written advice for these enquiries.

A new fee incentive has also been introduced to allow for a \$55* discount to any applicants who follow up from the pre-lodgement enquiry and lodge either a CDC or Construction Certificate application with Council.

Development Applications

If Complying Development is not applicable for your proposal, you will require development consent from Council. This consent must be achieved through lodging a Development Application (DA) to Council. The DA mainly focuses on the town planning and environmental impacts of your proposal, particularly on in respect of your site's relationship with adjoining properties, and the prevailing character of your locality.

Once approved, the next main step is to gain a Construction Certificate (CC) approval before commencing any building works. A CC can be sought from either Council or an accredited private certifier. It may also be necessary to gain a series of concurrent approvals from Council for works involved in establishing appropriate water, sewer and driveway access for your new development.

Following receipt of these pre-construction approvals, you can then proceed with your builder to commence the works. Various site inspections and final signs-offs will be needed before you can occupy the new house.

What are the Main Rules for Development?

All developments, big or small, must address the rules of a hierarchy of State Government and Council planning control documents, primarily through the NSW Environmental Planning and Assessment Act 1979 (in particular Section 79(C), any relevant state or regional plans, and the Tweed LEP 2000.

The more detailed design rules are contained with the Tweed Development Control Plan (DCP) 2008. This DCP applies both Council wide controls (the most important being Section A1 - Residential and Tourist Development Code), as well as additional locality based controls for more sensitive areas in the Shire, such as Pottsville and Hastings Point.

Copies of all the LEP and DCP documents can be viewed and downloaded from the "Planning" section of Council's web site.

How to get help in Preparing and Lodging a Development Application?

A Development Application for a New Dwelling House will often require quite specialised technical skills to compile the various forms, plan and written documentation. Council's web site provides a data base and contact of details of firms that are locally based and that regularly involved with applications lodged with Tweed Council.

Tweed Council also provides an extensive range of free, and fee-based pre-lodgement services to assist your understanding of the DA process, the development rules, and requirements needed to lodge a DA.

A good starting point is to gain access to the "How to get Development, Building and Environmental Health Advice" heading on the opening page of the "Planning/Development/Building section of Council's web site (located under the home page heading of "Our Services").

This heading will lead you to the various options for gaining Council assistance, ranging from the extensive web based information, DA Preparation Guides and Checklists, and the direct contact details of Council's Contact Centre, and the technical and professional officers of Council's Planning and Regulation Division.

Either phone or direct advice in person can be obtained by visiting Council's Murwillumbah office.

Most people also gain the assistance of private planning and building consultancy firms to prepare the application on their behalf. Plans for the new house are generally prepared from a choice of architectural and building design specialists, including packages offered by major housing and development firms.

Who will assess your DA in Council and how long does it take to get a determination?

All New Dwelling House DAs at Tweed Council are assessed by qualified and experienced officers of the Building Unit. Depending on the adequacy of the DA lodgement, the complexity of any development constraints, possible negotiations needed with objecting neighbours, possible reporting to a Council Meeting, and any need for additional information or amended plans, most New Dwelling House DAs are determined by Council within a six to eight-week period.

The main determination will with be either an approval (with accompanying conditions), or a refusal. There are various legal avenues for you to seek a review or lodge an appeal against a determination of Council.

*Please note that Council's Fees and Charges are updated annually at the end of each financial year.

