

## INFORMATION SHEET

Frequently asked questions relating to building works occurring on a neighbouring property.

### Are all developments processed the same way?

No, there are three main development types. Based on the proposed works the property owner/applicant needs to determine if the works requires development approval, and if so, which type of approval pathway to consider.

Below are the three main types of developments:

- **Exempt development** which involves minor building renovations or works that do not require any planning approval. Works must comply with strict conditions/development standards set by the State Government under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, known as the 'Codes SEPP'. Note: it is up to the owner/applicant to determine whether or not their proposal qualifies as exempt.
- **Complying Development** which requires a complying development application (CDA) to be lodged with the nominated principal certifier (PC) - either Council or an Accredited Certifier (AC). To be approved, the proposal must meet strict conditions/development standards under the SEPP and there is no ability to seek a variation to the planning controls. In most instances, notification that an application has been lodged is provided to adjoining properties, however there is no ability to lodge a submission or provide feedback. The application is either 'fast-track' approved with the issue of a complying development certificate (CDC), or refused based on non-compliance with relevant part of the Codes SEPP.
- **Local Development** which requires a local development application (LDA) to be lodged with Council. The proposal should comply with Council's current Local Environment Plan (LEP) and Development Control Plan (DCP) and other legislation as relevant. In most instances, neighbour notification will occur and depending on the scale of the proposal, the application may also be placed on public exhibition. Any submissions received will be considered as part of the assessment process (against the relevant planning controls and assessment criteria).

### I received notification in the mail relating to a Local Development Application (LDA), what does that mean?

Council has received an application from one of your neighbours, or a property located nearby wanting to obtain consent to alter or redevelop their property. You will be able to view certain plans/documents and comment on the proposal within a set notification period (generally 14 days).

### How can I view the plans?

The letter will provide details for locating the application and plans on Council's website using the DA tracker, which also provides guidelines and a link for lodging a submission.

Documents available online during the notification period may include:

- Statement of Environmental Effects (SEE) – details of the proposed work, any possible impacts or environmental factors (e.g flood, bushfire etc), whether the proposal complies with the applicable planning controls and related legislation or details of any non-compliances and justification for variation.
- Site plan – a “birds eye view” of the land that will show the area that is to be developed, may include the approx. location of buildings on the adjoining properties. This will normally include the proposed setbacks (distance of any proposed work to the property’s boundaries).
- Elevations – a plan of each side of the building which contains proposed changes, this might include heights, location of windows; doors; balconies; awnings etc.
- Shadow Diagrams – a plan showing the approximate extent to which shadows will be cast by the new building on 21 June, at 9am, 12 noon and 3pm. This only applies to buildings that are
- Two or more storeys. The shadow diagrams are indicative only; please contact Council if you are unsure how overshadowing might affect your property.
- Any other documents that may assist in your understanding of the application.

Plans and documents can also be viewed Monday to Friday from 8.30am to 5pm at the Customer Service Centre, 1 Pope Street Ryde.

## **I don't understand the plans and need assistance**

If you have any queries about the plans, possible impacts or the development process, Council's Customer Service Officers, Technical Support Officers and Development Advisory Officers are available for enquiries on 9952 8222 or email [cityofryde@ryde.nsw.gov.au](mailto:cityofryde@ryde.nsw.gov.au) .

## **What happens next?**

At the end of the notification period, a Council Assessment Officer will commence the assessment of the development application. The assessment process includes undertaking a site inspection, reviewing any submissions received, internal referrals to other relevant council officers (engineers, landscape architect, heritage officer etc), assessing the plans and documents against the statutory requirements and compliance with relevant planning controls.

During the assessment process, amendments to the proposal may occur in response to; non-compliances; concerns raised by neighbours; or due to the outcome from internal referrals.

An assessment report is created, which documents the assessment process and consideration of any non-compliances and/or submissions.

If there are changes made during the assessment process, a full or partial renotification may occur if the changes have an impact on the adjoining properties or changes the design of the proposal.

## **What happens if the application doesn't comply with the relevant planning controls, will it be refused?**

Whilst Complying Development Applications (CDA) must fully comply with all planning policies to be approved, Local Development Applications (LDA) can include areas of non-compliances however the applicant should make every effort to comply with Council's planning policies/development controls.

The LDA is subject to a merit-based assessment (including neighbour notification).

A determination will then be made by staff under delegated authority or may be referred to the Ryde Local Planning Panel or Regional Planning Panel for determination.

## **I made a submission about my neighbour's local development application (LDA), will I be notified of the outcome?**

If you have made a submission, you will be advised by email when a determination has been made. Council's preferred method of communication is via email, however letters will be issued if an email notification is not available.

Details on the application, a copy of the assessment report, and either the refusal or consent conditions and plans are available on Council's website by accessing the application on the DA Tracker. Alternatively, you can view the documents at the Customer Service Centre, 1 Pope Street, Ryde.

The assessment report will clarify any areas of non-compliance, detail any submissions received and provide comments on the decision-making process.

## **What if I am unhappy with the outcome?**

If Council has approved the application, this was after a balanced consideration of the impact on neighbouring properties against the property owner's right to construct a building that meets the objectives of Council's development controls.

In a suburban area, most applications will have some impact on the surrounding properties. This can range from the general inconvenience and noise emitted during the construction stage to possible impacts on reduced privacy, sunlight, or increased occupancy in the street.

Streetscapes are changing in accordance with lifestyle trends, rising property values and population growth. The size and scale of new dwellings has increased, and the rising number of dual occupancies and secondary dwellings is replacing traditional single dwellings and older housing stock.

Generally, once an application has been approved no action can be taken by an objector to reverse Council's decision. There are some potential appeal rights for objectors to development applications, but these are limited to issues with due process or in respect of 'designated development'. Very few applications are classified as designated development. Contact Council (9952 8222) for more information.

## **How long is the consent valid for?**

The consent is a legal document which is attached to the property and most consents are valid for five (5) years from the date the consent is issued. If works have commenced and the consent has been activated, there is no period for the works to be completed. If works are not commenced within the 5 year period, the consent becomes invalid and a new development application would need to be lodged.

## **The building has commenced – where is Council?**

In 1998, the State Government introduced private certification which changed the Council's role in overseeing and regulating the construction stage of a development. From this time property owners could choose the regulatory authority that would assess and approve their construction certificate (Accredited Certifier) and appoint the certifier that would attend the site, conduct the mandatory inspections, and ensure that the works were in accordance with the development consent (Principal Certifier). Council only undertakes these roles if a property owner appoints Council to this role/s.

Once building works have been approved, the owner is required to appoint a Principal Certifier (PC). The role of the PC is to carry out mandatory building inspections at specific stages of the development, check compliance with the relevant approvals and certificates and to issue an occupation certificate when the development is completed. In carrying out this role, the certifier has the authority to advise the builder and/or owner to rectify a non-compliance and to respond back to complaints from the public.

## Who do I contact if the building isn't in accordance with the approved plans?

Complaints relating to non-compliance with the development consent should be made directly to the certifier appointed to the development. This could be a private principal certifier or Council, details of the certifier are required to be provided on signage at the front of the building site. If this information is not available, details can be obtained from Council.

If you have concerns with a construction site, Council staff can advise if the matter needs to be lodged with Council, a private Principal Certifier or Safework NSW, and should be able to provide you with the relevant contact details.

## What is Council's role when a private certifier has been appointed the principal certifier (PC) for a development site?

If the matter involves a site that has a private principal certifier, Council will only intervene if the certifier has been advised of the issue and had adequate time to investigate and respond. Should this be the case, in the first instance, Council will contact the certifier and advise them of your concerns. If the matter is still unresolved by the private principal certifier, and there remains a breach of the development consent, the matter will then be accepted for Council staff to investigate.

Council is not the regulator of private certifiers, should you be dissatisfied with a private principal certifier, complaints should be lodged with the NSW Fair Trading.

NSW Fair Trading

PO Box 972

PARRAMATTA NSW 2124

<https://www.cas.fairtrading.nsw.gov.au/icmspublicweb/forms/BuildingCertifierForm.html>

If Council is the certifier and you are unhappy with the response you get from Council, complaints can be forwarded in writing to the Department of Local Government.

Division of Local Government

Locked Bag 3015

NOWRA NSW 2541

Further information can be found at [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au)

## Further Information

This information sheet provides a summary of what to expect when a property nearby is developing. Any person using this document must do so with the understanding that the information is a guide only. Please refer to Council's document "Having your say - what happens to your comments on Development Applications" or "Principle Certifiers (PC) and the role of Council Fact Sheet" for further information.

Information Sheet	Version	Date
Development - From A Neighbours Point of View	2	September 2022