



DEVELOPMENT GUIDE

what process does an application undertake?

Development approval is required for new buildings and structures, changes to or demolition of existing buildings and structures, or a change in land use.

This process allows Council to assess a proposal against regulations to ensure that the development satisfies the desired character of the area and that the buildings are safe.

Development Approval is made up to two separate consents: Planning and Building.

Planning Consent - determines whether or not a proposal will be acceptable according to the Council's Development Plan. This is the document which outlines the desired character for different parts of the Council area and it is recommended that applicants refer to Council's Development Plan before making an application (*The Development Plan is available from Council's website*).

Building Rules Consent - When the proposal involves building, consent is required to determine whether or not the proposal satisfies technical building requirements and will be structurally sound if built in accordance with the approved plans. Assessment is made against the Building Code of Australia and/or South Australian Housing Code.

Building consent may be undertaken by a Private Certifier; however consent from a private certifier does not automatically guarantee development approval. Council may require assessment of further criteria.

what does it mean when my application is 'complying' or 'non-complying' or 'consent on merit'

Each development application will fit into one of three classes which affect the way that the application is handled:

- **Complying** – if the proposed development meets the criteria specified in the Development Regulations 2008, approval must be granted.
- **Non-complying** – if the proposed development is inappropriate or inconsistent with the desired character of a locality **as listed** in the Development Plan, only in special cases where the proposal has merit does the Development Act provide an opportunity for assessment of an application. For more information see '*Non-complying Development*' process fact sheet.
- **Consent-on-merit** – if the proposed development is not specified as either complying or non-complying, it is individually assessed on merit having regard to the Development Plan policies.

can I apply for planning consent only?

Applications can be made for both consents at once, or separately (staged). An applicant may choose to stage the consents to avoid preparing detailed building plans and specifications until the application has been assessed in relation to the Development Plan, as design changes may be required to meet the rules of the development plan.

The Development Act requires that **no development can be undertaken unless it has the approval** of the relevant authority, which in most cases is your local Council. This means that any construction, alteration, addition to or demolition of a building or structure, a change in that current use of land, or anything that modifies a designated heritage item constitutes development as defined in the Act and therefore requires formal Development Approval.

Certain minor activities or building work are excluded by Regulation from this definition and are thereby exempt from the need to seek approval.



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referral of an application to Government Agencies

Some applications are required to be referred to and assessed by further statutory bodies. Referrals and concurrences are listed under Schedule 8 of the Development Regulations 2008.

This process is undertaken under statutory time limits of up to 8 weeks.

For example:

- Development within the State Heritage Area or on a Heritage Listed building, must be referred to the Department of Environment & Heritage
- Some development adjacent to main roads must be referred to the Commissioner of Highways.
- Development of an environmental significance must be referred to Environment Protection Authority
- Habitable structures within a High Bush Fire Risk Area must be referred to the CFS

The Government Agencies that Council may require comment from on your application are:

- Development Assessment Commission (DAC) *website: www.dac.sa.gov.au*
- Country Fire Service (CFS) *website: www.cfs.sa.gov.au*
- Department of Environment & Heritage (DEH) *website: www.environment.sa.gov.au/heritage*
- Department of Planning & Local Government (DPLG) *website: www.planning.sa.gov.au*
- Environment Protection Authority (EPA) *website: www.epa.sa.gov.au*
- Northern & Yorke Natural Resources Management Board *website: www.nynrm.sa.gov.au*
- Department of Water, Land & Biodiversity Conservation (DWLBC) *website: www.dwlbc.sa.gov.au*
- Native Vegetation Council (NVC) *website: www.nvc.sa.gov.au*
- Environmental Protection Biodiversity Conservation (EPBC) *website: www.environment.gov.au/epbc*

when can I start building?

It is important to understand that you cannot start work on any development, including earthworks, until the relevant authority has issued the Development Approval notice. Otherwise, the Act provides for heavy penalties including exemplary damages and/or a daily fine for each day the offence continues.

the decision

Once the assessment is complete, the relevant authority (i.e. Council) can make a decision on the application and either approve the proposed development (sometimes subject to conditions), or refuse the proposed development.

how will a decision be made?

The **planning assessment** of any application **must** be made consistent with the planning policies contained in Clare & Gilbert Valleys Council Development Plan, and the decision has to be made solely on the basis of this policy. The content and substance of the planning policies are mostly of an advisory nature and provide a guide to the assessment process. But, a Development Plan consent cannot be granted if the Council's Development Assessment Panel believes that the proposal is *seriously* at variance with the Plan's policies. The suitability or otherwise of a development proposal is determined solely in the context of the Development Plan.

In respect to the **Building Rules assessment**, the requirements of the Building Code have to be satisfied.

who makes the decision and when?

Either Council or the Development Assessment Commission is the 'relevant authority' charged with the obligation of assessing and issuing decisions. The Minister (in the case of Crown developments) or even the Governor (when a major project is declared under the Act) are also specified as 'authorities' under the Act, but their involvement is the exception rather than the rule. Mostly, it will be the local Council who will be responsible for making decisions.

Most applications can be decided by Council officers under delegated powers from the Council. Some applications, particularly those where representors request to be heard, are considered by the Council's Development Assessment Panel (CDAP), which is made up of Elected Council members and independent members. In some cases, concurrence of CDAP's decision on an application may be required to be considered by the Development Assessment Commission (DAC).



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how long will my application take?

There are set time limits specified in the legislation within which decisions need to be made depending upon the nature of the development being applied for.

Applications for routine developments that require an assessment to be made can generally be dealt with in a short period of time. A relevant authority should deal with an application within the timeframe outlined in the Development Regulations 2008. The timeframe for assessment of an application commences from the date of receipt of the application.

- Complying development = 2 weeks
- Development Plan Consent = 8 weeks
- Building Rules Consent = between 4-12 weeks
- Where an application has to be referred to a Government Agency, then the time limit is extended by 6-8 weeks
- Land Division Applications = 12 weeks

Whether a decision can be made in less time than these limits depends largely upon the complexity of the proposal and the issues that it may consequently raise. If a decision is not made within the statutory time period, an applicant has the right to insist that the Panel issue a decision and, after 14 days without a response, an application may be made to the Environment, Resources and Development (ERD) Court for an order directing the Panel to make a decision.

can I apply for an extension to an approval?

A relevant authority may extend a development approval upon an application being made by a person who has the benefit of any relevant development approval, subject to requirements.

When a planning consent is issued the Building Rules consent (if relevant) and full Development Approval must be issued within 12 months of the planning decision.

When Development Approval is given for a development, work on that development must be substantially commenced within 12 months of the date of the approval and be substantially or fully completed within 3 years.

This is a requirement of Regulation 48 in the Development Regulations 2008.

If an applicant cannot achieve Development Approval or commencement and completion of the development within the relevant time then they may request an extension of time for the decision to remain valid.

For further information please phone: 8842 6400 or email: admin@cgvc.sa.gov.au

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The above information is advisory and a guide only to give you a general understanding of the key points associated with the approval system. It is recommended that you seek professional advice or contact our Development Services Department regarding any specific enquiries or for further assistance concerning the use and development of land.