



## **2.0 Application Process**



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## **2.1 Types of Development**

## 2.1 Types of Development

### 2.1.1 Aim of This Section

The primary aim of this section is to provide supplementary guidance on the different types of development and assessment procedures.

### 2.1.2 What are the Types of Development?

Development of land includes but is not limited to:

- The use of land (includes changing the use of an existing building);
- The subdivision of land;
- The erection of a building;
- The carrying out of a work (such as residential alterations and additions, commercial fit-outs);
- The demolition of a building or work.

There are three main categories of development:

- Exempt development,
- Complying development, and
- Development where a development application is required.

#### Exempt Development

Exempt Development is a category for minor development with minimal environmental impact (such as some types of fences, garden sheds, barbeques etc.). Exempt development does not require Council approval, provided it meets all the specified restrictions listed on the relevant legislation (such as location, size, materials, etc.) according to the type of development.

The State Environmental Planning Policy – SEPP – (Exempt and Complying Development Codes) 2008 (Code SEPP) applies across the State, lists development types that are classified as exempt development and provides the correspondent requirements. Part 3 Exempt and Complying Development of Hurstville LEP 2012 contains provisions for additional development types within the local government area of Hurstville City Council which are not covered by the Codes SEPP.

#### Complying Development

Complying development is a category of development that can be addressed by specific pre-determined development standards or requirements. A Complying Development Certificate must be obtained stating that the proposal satisfies the requirements for complying development and in the case of a development involving the erection of a building, identifying the classification of the building in accordance with the Building Code of Australia (BCA). You may apply to either Council or an accredited certifier for a Complying Development Certificate. An application may be made by the owner of the land, or by any other person with the owner's consent.

The Codes SEPP applies across the State, lists development types that are classified as complying development and provides the correspondent requirements. Part 3 Exempt and Complying Development of Hurstville LEP 2012 contains provisions for additional development types within the local government area of Hurstville City Council which are not covered by the SEPP.

Complying development on land can only be carried out upon receipt of and in accordance with the Complying Development Certificate, in accordance with any provisions of an environmental planning instrument or other legislation, codes and regulations that apply to the complying development and after appropriate fees and bonds have been paid.

#### Development Applications

All other development will require a development application to be lodged with Council and will be subject to the provisions of the Hurstville LEP 2012, relevant State Environmental Planning Policies (SEPPs), and this DCP.

**Note:** Refer Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) to find detailed information on exempt and complying development, how to prepare a development application, development application checklists and the assessment process. You can also telephone Council's Service Centre on (02) 9330 6400 and request assistance from the Duty Planner.

### 2.1.3 Exempt and Complying Development

#### Relevant Legislation

Provisions for exempt and complying development were previously contained on Council's Development Control Plans. In 27 February 2009 the Codes SEPP was introduced. This policy and has state-wide application and contains exempt development types and complying development codes such as the General Housing Code, the Housing Internal Alterations Code and the General Commercial and Industrial Code, and the correspondent standards and requirements.

Part 3 Exempt and Complying Development of Hurstville LEP 2012 contains provisions for additional development types.

You should refer to the Codes SEPP Exempt and Complying Development and to Hurstville LEP 2012 for detailed information. Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) provides additional information and references to the Hurstville LEP 2012 and the Codes SEPP. You can also telephone Council's Service Centre on (02) 9330 6400 and request assistance from the Duty Planner.

## 2.1 Types of Development

### How to Determine if My Development is Classified Exempt or Complying?

#### 1. Is My Development Exempt Development?

- Check the Codes SEPP first. Your development must comply with the definition of exempt development, all general requirements and requirements specific to the development type listed on the Exempt Development Codes.
- Hurstville LEP 2012: Check the additional exempt development provisions on Hurstville LEP 2012. Your development must comply with all the requirements listed on Section 3.1 Exempt Development and all requirements for the specific development type listed on Schedule 2 Exempt Development of Hurstville LEP 2012.

If your development is not exempt development, move to STEP 2.

**Note:** Exempt and Complying development provisions do not apply to all allotments. For example, sites of heritage significance and bushfire prone land may be excluded. For your development to be classified as either exempt or complying development, it will need to comply with ALL the specified requirements, conditions and standards. If it does not, a development application will need to be submitted for Council's approval. Please refer to the Codes SEPP and Hurstville LEP 2012 to understand all restrictions that apply to your site or development

#### 2. Is My Development Complying Development?

- Check the Codes SEPP first. Your development must comply with the definition of complying development, all general requirements and requirements specific to the development type listed on the corresponding Development Codes.
- Hurstville LEP 2012: Check any additional complying development provisions on Hurstville LEP 2012. Your development must comply with any requirements listed on Section 3.2 Complying Development and all requirements for the specific development type listed on Schedule 3 Complying Development of HLEP 2012.

If your development is complying development you will need to obtain a Complying Development Certificate either from Council or from an Accredited Certifier. If your development is not complying development, move to STEP 3.

**Note:** Exempt and Complying development provisions do not apply to all allotments. For example, sites of heritage significance and bushfire prone land may be excluded. For your development to be classified as either exempt or complying development, it will need

to comply with ALL the specified requirements, conditions and standards. If it does not, a development application will need to be submitted for Council's approval. Please refer to the Codes SEPP and Hurstville LEP 2012 to understand all restrictions that apply to your site or development.

#### 3. You Need to Lodge a Development Application

Refer to Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) to find detailed information on how to prepare a development application, development application checklist and the assessment process. You can also telephone Council's Service Centre on (02) 9330 6400 and request assistance from the Duty Planner.

You may also refer to Section 1.12 What Information Do I Need to Provide with a Development Application for general guidance.

**Important:** Should any doubt exist as to whether a particular activity requires approval, consultation should be arranged with Council officers prior to any work commencing.

If your development can be classified as either exempt or complying, you are also advised to:

- Consult a building surveyor (accredited under the Environmental Planning & Assessment Act 1979) to ensure that works will comply with the Building Code of Australia and any relevant Australian Standards.
- Consult a structural engineer (who is a Corporate Member of the Institute of Engineers) where any activity may impact upon the structural stability of any structure.
- Irrespective of this plan, ensure that you comply with all relevant Acts and Regulations.



## **2.2 Neighbour Notification and Advertising of Development Applications**



## 2.2 Neighbour Notification and Advertising

### 2.2.1 Aims

The primary aims of this Section are to:

- Enable public participation in the consideration of development applications.
- Provide a process for property owners and residents to make submissions.
- Provide a process when notification is required.
- Set out the matters Council will consider when forming its opinion as to whether or not the enjoyment of adjoining and neighbouring land may be detrimentally affected by a development after its completion.
- Ensure notification of landholders who may be affected by a development application even though they do not own adjoining land.
- Define the circumstances when notification is not required.

### 2.2.2 Land to Which This Section Applies

This section applies to all land to which the Hurstville Local Environmental Plan 2012 applies, (with certain exceptions as outlined in this Section) for the notification of applications for:

- a) Development consent (other than designated and state significant development);
- b) Modification of development consents under section 96 of the Environmental Planning and Assessment Act 1979.
- c) Review of determination under sections 82A and 96AB of the Environmental Planning and Assessment Act 1979.

### 2.2.3 Persons to be Notified & Applications to be Advertised

#### Notification and Advertising Requirements

The category listings below aim to differentiate between minor and significant development, where Category A & B is minor development and Category C is more significant development. Upon Council receiving an application detailed below, the specific notification requirements will be met.

**Category A: Development application involving structures of minor significance, that are unlikely to have major impact on the locality (for example, alterations and additions to dwelling houses above single storey and the like)**

- a) A written notice will be forwarded to the owners and tenants of adjoining land.
- b) The owners and occupiers of other neighbouring land, may be notified who, in the opinion of Council, may be impacted by the proposal.

#### **Category B: Development application involving:**

- **New dwelling houses**
  - **New dual occupancies (attached or detached)**
  - **New secondary dwellings (granny flats) greater than single storey**
  - **New semi-detached dwelling**
  - **New small lot housing**
  - **New Torrens Title subdivisions (excluding subdivision of approved dual occupancy developments)**
- a) A written notice will be forwarded to the owners and occupiers of land located two (2) properties on either side of the proposal, the property at the rear and one (1) property on either side of the rear and three (3) properties generally opposite (across any road).
  - b) The owners and occupiers of other neighbouring land and other strata units of the subject site may be notified if in the opinion of Council, the proposed development is likely to result in an adverse impact for those owners or occupiers.

#### **Category C: Development application involving**

- **Group homes**
- **Hostels**
- **New attached dwellings**
- **New multi-unit housing**
- **New residential flat buildings**
- **New mixed use premises**
- **New seniors housing developments**
- **Tourist & visitor accommodation**
- **New buildings in a Business or Light Industrial Zone**
- **New child care centres or**
- **Demolition and/or alteration of a building or land that is or contains a heritage item listed on Schedule 5 of the Hurstville LEP 2012**
- **New hospitals or major works to existing hospitals**
- **New educational establishments or major works to existing educational establishments**
- **New places of public worship or development applications resulting in intensification of the use of existing places of public worship**
- **Boarding houses**
- **Affordable rental housing**

## 2.2 Neighbour Notification and Advertising

- Sex services premises
  - Any other development Council considers should be advertised
- a) A notice will be placed in the local newspaper (The St George and Sutherland Leader) advertising the development application.
  - b) A written notice will be forwarded to the owners and occupiers of land located two (2) properties on either side of the proposal, the property at the rear and one (1) property on either side of the rear and three (3) properties generally opposite (across any road).
  - c) The owners and occupiers of other neighbouring land and other strata units of the subject site may be notified who, in the opinion of Council, may be impacted by the proposal.
  - d) For alterations and additions to any of the above, notification will be based on the discretion of Manager Development Assessment.

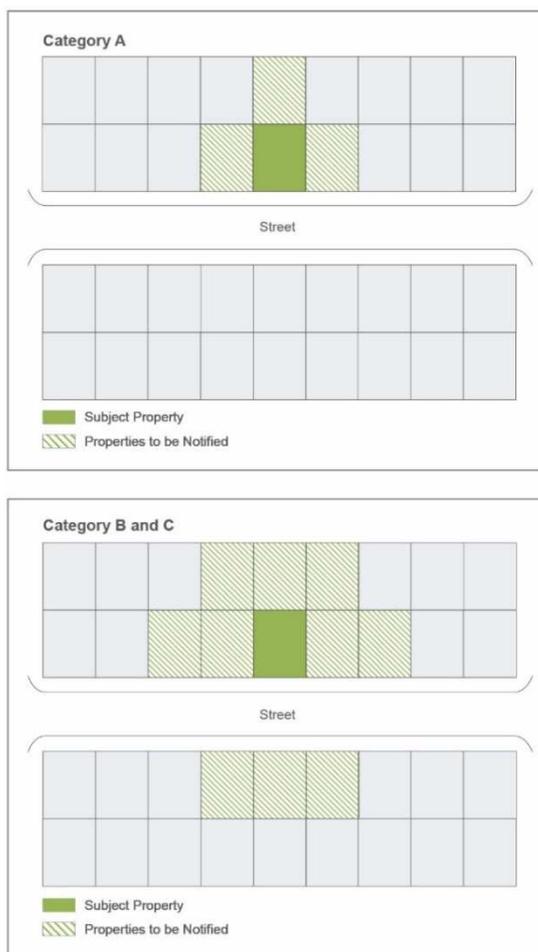


Figure 1: Neighbour Notification

### Other Notification:

A notice may be given to adjoining Councils in respect of development applications for development on land adjoining these local government areas, asking the adjoining Council to notify their residents/ratepayers.

### Important Considerations

- a) Where public concern is raised to any application, Council may consider a wider notification of an application or extension in the time available for comment should the case warrant such action.
- b) Where Council receives an application under Section 96 of the Environmental Planning and Assessment Act 1979 to modify a development consent where the proposed modification would have an increased impact on any neighbouring property, Council will notify:
  - i. The owners of land and any other person who has previously lodged a submission to the original or previous application to which the s.96 application relates; and
  - ii. Any other owners of land, who, in the opinion of Council, may be impacted by the proposal and any amendments or variations to that application.

**Note:** Where a Section 96 modification application results in a less impact than the originally approved development application no notification is required.

- c) In the case of Strata Titled properties, a notice will be forwarded to the Owners Corporation, or an Association (under the Community Land Development Act 1989), as well as the owners and occupiers of each strata unit.
- d) Council will not place an application on public notification and advertising in cases where an application has been submitted and in the opinion of Council is incomplete and/or Council is awaiting further information or clarification from the applicant on outstanding matters prior to the notification process.

### Applications Which Will Not Be Notified

The following types of development (where such development is fully compliant with Council's controls) are excluded from notification or advertisement, as being development, in the opinion of Council, which has minimal environmental impacts and is not likely to result in any adverse impacts for the broader community.

Council will not publicly notify or advertise development applications which comply with Council's Planning controls where:

- a) The proposal represents exempt or complying development pursuant to Hurstville Local Environmental Plan 2012 (refer note below);

## 2.2 Neighbour Notification and Advertising

- b) Applications for single storey extensions in the B1 Neighbourhood Centre, B2 Local Centre and IN2 Light Industrial Zone which comply with the relevant car planning controls for the land use contained in this DCP;
- c) Change of use of a building is proposed in the B1 Neighbourhood Centre or B2 Local Centre or IN2 Light Industrial Zone – up to midnight only (excluding small bars and pubs);
- d) Amendments to an undetermined application which there is no increased impact on adjoining properties than what was initially proposed;
- e) Amendments to a development approval under s.96 of the Environmental Planning and Assessment Act 1979 where there is no increased impact as assessed by Council's planning officers;
- f) Applications to strata subdivide or company title buildings;
- g) Applications to strata subdivide approved buildings;
- h) Applications relating to demolition of existing buildings (excluding Heritage Items);
- i) Applications for new signage in the B1 Neighbourhood Centre, B2 Local Centre or IN2 Light Industrial Zone that is not flashing or moving;
- j) Torrens title subdivisions of approved dual occupancy development;
- k) Applications only for the lopping or removal of trees required under Clause 5.9 Preservation of trees or vegetation of Hurstville LEP 2012 and relevant parts of this DCP, which are not associated with any other development occurring on the site;
- l) Applications for Swimming Pools associated with residential development;
- m) Applications for single storey outbuildings (carports, awnings, decks, etc.);
- n) Applications for single storey alterations and additions to a dwelling house;
- o) Applications for single storey secondary dwellings (granny flats);
- p) Applications for works in drainage easements (i.e. pipe laying).

**Note:** Amendments to the Environmental Planning and Assessment Act 1979, on 27 February 2009 introduced two (2) new categories of development known as exempt and complying development. Exempt development does not require consent from the Council to be carried out. Complying Development is development that can be carried out once it is certified by Council or an accredited Certifier.

The Hurstville LEP 2012 and Codes SEPP enlist exempt and complying development. There is no opportunity to make a submission in relation to exempt or complying development.

### Issues Affecting Decision to Notify Neighbours

Council will take into consideration the following issues before deciding to notify neighbours:

- a) The scale, height, external appearance and bulk of the proposal in relation to the neighbouring properties and the streetscape;
- b) Overshadowing;
- c) Privacy;
- d) The views to and across/over the application site;
- e) Potential view loss;
- f) Pedestrian and vehicular traffic and provision of parking on the application site;
- g) Noise;
- h) The use of the proposed building and the hours of use;
- i) Heritage and cultural significance;
- j) The likely effect on the drainage of the adjoining sites;
- k) The character and quality of the environment within foreshore areas;
- l) Economic and social impacts;
- m) Particular circumstances of the application.

### Display Sign on Site

Where a development is defined as Category B or C, a sign will be erected on the site which displays the following information:

- a) The address to which the application relates;
- b) A brief description of the proposal;
- c) The name of the applicant;
- d) A site plan; and
- e) Where and when plans can be inspected.

The display sign must be erected on the front of the site. Where a site has dual street frontage, a display sign must be erected on both frontages.

### Notification Period for Development Applications

- a) Development applications may be inspected at Council from Monday to Friday during business hours and submissions can be made by any one during the notification period. A period of 14 calendar days, excluding public holidays, will be allowed for persons to inspect an application and make a submission. The inspection period may be extended by Council if warranted by the circumstances of the case.
- b) Development applications that have been notified are also available to view on Council's website:  
[www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

## 2.2 Neighbour Notification and Advertising

- c) In the case of nominated integrated development or threatened species development, any period specified by the Regulations.
- d) To account for the holiday period associated with Christmas and New Year, from 15 December to 15 January the following year, the period to inspect an application and make a submission will be extended to 21 calendar days, excluding public holidays.
- e) To account for the holiday period associated with Easter, the period to inspect an application and make a submission will be extended to 21 calendar days, excluding public holidays. The holiday period for Easter is defined as the week before and the week after the Easter Long Weekend.
- f) Council will not determine a development application before the notification period has expired.

### Form of Submissions

- a) A submission can:
  - i. Support an application;
  - ii. Object to an application;
  - iii. Object to part of an application;
  - iv. Suggest alternatives to an application or element of an application.
- b) Submissions must be in writing and received within fourteen (14) days of the date of Council's letter, advertisement or site notice (unless varied by the circumstances of the case), and on or before the close of the notification period.
- c) Submissions can be mailed, emailed or faxed to Council:  
  
The General Manager  
Georges River Council  
PO Box 205  
Hurstville BC NSW 1481  
Email : mail@georgesriver.nsw.gov.au
- d) Submissions must clearly indicate the:
  - i. Name and address of the person making the submission;
  - ii. Development application number and the address of the application site; and
  - iii. Reason for the submission.
- e) Any written submissions made are open to public scrutiny in accordance with the Local Government Act 1993.
- f) Special alternative arrangements may be made where any difficulty exists in the provision of written submissions, such as language aides.

### Who Can Inspect Plans

- a) Any person, whether or not entitled to be given formal notice under the provisions of this Plan, may at any time during the ordinary office hours of the Council and during the notification period, inspect free of charge, the details or plans of a development application.
- b) A copy of the notification plan and/or copies of other parts of the application plans (as permitted by copyright laws) can be obtained by any person under the provisions of Government Information (Public Access) Act 2009.

### Council Must Consider All Submissions

- a) Council must consider all submissions made within the notification period, before it determines the application.
- b) Council will not take into account matters extraneous to those prescribed within this DCP, other policies of Council, or the relevant Acts and Regulations. Personal disputes between neighbours will not be considered.
- c) Council is not bound by any submission and the assessment of the application will involve considering the merits of the application together with all submissions. Those who make a submission do not have a statutory right to prevent the approval of an application nor a statutory right of appeal.

### Notification of Council Meeting

- a) If an application is placed on the agenda of the Council for determination, the applicant and any person who has made a written submission will be notified of the time and date of the meeting.
- b) Not all applications which receive objections need to be referred to Council.

### Notice of Determination

- a) Each person who made a submission in respect of an application will be notified in writing of the result of Council's decision.