



Application Assessment Policy

Date policy was adopted by Council:	14 September 2011
Resolution number:	PDR079/11
Previous Policy review date:	August 2013
Next Policy review date:	5 September 2016
Reference number:	C1379400

1. OUTCOMES:

To provide an efficient customer service to all users of the services provided by Council's Development Assessment and Building/Subdivision Certification sections.

2. DEFINITIONS:

Complying Development Applications: Means an application for routine or standard development that is deemed to have low impact on neighbours and the community. Complying Development can include – detached single and double storey dwelling houses; home extensions and renovations; and other ancillary development such as swimming pools.

The NSW Housing Code provides criteria under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for both Exempt (i.e. does not require Council approval) and Complying Development.

Complying Development can be assessed by Council or a Private Certifier.

Construction Certificate: Means a certificate to the effect that work completed in accordance with specified plans and specifications will comply with the requirements of the Environmental Planning and Assessment Regulation.

Development Application: Means an application for consent to carry out development under Part 4 of the *Environmental Planning and Assessment Act 1979* but does not include an application for a Complying Development Certificate.

Development: Means the

- (a) Use of land, and
- (b) Subdivision of land, and
- (c) Erection of a building, and
- (d) Carrying out of a work, and
- (e) Demolition of a building or work, and
- (f) Any other act, matter or thing controlled by an environmental planning instrument.

Section 68 Application: Section 68 of the *Local Government Act* refers to the activities required to be approved by the Council.

If Section 68 works are to be carried out as part of a development application it is not necessary to fill out the separate Section 68 application form.

If activities are to be undertaken independently from a development application, an application for Approval to Carry Out an Activity (S68) will need to be lodged to carry out any activities listed under Section 68 of the *Local Government Act*.

Subdivision Certificate: Means a certificate that authorises the registration of a plan of subdivision (linen plan) under Division 3 of Part 23 of the *Conveyancing Act 1919*.

Section 82A Review of Determination Application: Means if the consent authority is a Council an applicant may request the Council to review a determination of the applicant's application, other than:

- (a) A determination to issue or refuse to issue a Complying Development Certificate, or
- (b) A determination in respect of Designated Development, or
- (c) A determination in respect of Integrated Development, or
- (d) A determination made by the Council under Division 4 in respect of an application by the Crown.

Section 149D Building Certificate Application: A Building Certificate application is issued in accordance with Sections 149A and 149B-149E of the *Environmental Planning and Assessment Act 1979*. Refer to Attachment D.

Certificate of Compliance: In relation to a Water Supply Authority means a Certificate of Compliance issued by a Water Supply Authority under the *Act* under which the Water Supply Authority is constituted

3. AREA OF APPLICATION OF THIS POLICY:

This policy applies to the determination of the following application types:

- (a) Development applications including subdivision applications.
- (b) Complying Development Applications.
- (c) Applications to modify development consents.
- (d) Linen plan releases – Subdivision Certificates.
- (e) Strata Subdivision applications.
- (f) Construction Certificate applications (Building and Civil Engineering works).
- (g) Section 68 applications under the *Local Government Act*.
- (h) Building Certificate applications.
- (i) Section 82A Review of Determination applications.
- (j) Water and Sewer Compliance Certificate applications.

4. POLICY:

The NSW Planning process is governed by a hierarchy of legislation and environmental planning instruments. The hierarchy starts with legislation such as the *Environmental Planning and Assessment Act (EPA) 1979* and then steps down to various types of plans e.g. State Environmental Planning Policies (SEPPs) and Local Environmental Plans and Policies i.e. Development Control Plans. These documents regulate land use and development. The steps involved in the building, subdivision and development application process are attached (Attachment A). The steps involved in the Complying Development Process are attached (Attachment B). The steps involved in the Building Certificate Application Process are attached (Attachment C).

The aim of this policy is to assist in understanding the process so that Council can play its role in facilitating timely and efficient application processing.

4.1 Customer Service Commitment

- 4.1.1 Council has statutory obligations to determine all applications promptly, and in most cases various forms of legislation provide a right of appeal to the Land and Environment Court if the application has not been determined within the periods specified in the *Environmental Planning and Assessment Regulations 2000* i.e. 40 days or 60 days in the case of designated development, integrated development or development for which concurrence of a concurrence authority is required OR 40 days for an application made under Section 96 or 96AA of the *Environmental Planning and Assessment Act 1979*.
- 4.1.2 To meet these obligations Council has set target decision making times for a range of applications outlined in its Operational Plan.
- 4.1.3 As well as Council having to meet its statutory obligations under the relevant legislation it is obliged to consider submissions to applications. Failure to meet these obligations can result in litigation and further delays to the determination of an application.

- 4.1.4 Council is able to defer assessment while awaiting receipt of further information. This will increase the time needed before determination of the application. The target decision making times referred to above do not include the time spent by Council waiting for sufficient information to be submitted.

4.2 The Importance of Pre-lodgement Consultation

- 4.2.1 It is desirable in all instances, but particularly for major, sensitive or complex applications, that applicants consult relevant community groups and members of the public and Council officers, prior to finalising and lodging an application.

- 4.2.2 To ensure that applications are valid, adequate and generally acceptable a variety of pre-lodgement consultation methods with Council officers are offered, including:

- Discussion with staff by phone or at the planning enquiry counter between 8.30am and 4.30 pm on any working day;
- By formal prior appointment;
- In writing or via email; or

- 4.2.3 Applicants may request a formal Development Coordination Review (DCR) Panel meeting to discuss their proposal. The panel members are able to advise:

- Compliance with relevant State Environmental Planning Policies, local planning instruments and Development Control Plans.
- Possible impediments to development (eg. tree removal, easements, sewer/water main locations, other legal restrictions, etc.).
- Other matters for consideration (eg. Building design, heritage matters satisfying Council's planning guidelines, etc.).
- The nature, form and type of information needed to be lodged with an application.
- Whether the application is likely to be advertised and, if so, the potential for objections.
- The nature of possible conditions including contributions which may attach to a consent (including the additional costs required through development contributions, if applicable).
- Zoning details under the local planning instrument.
- Disability (Access to Premises – Building) Standards 2010.

Note: While Council Officers will endeavour to identify all the issues relevant to a particular development application, a pre-consultation meeting cannot take the place of a full assessment of a development application.

It is therefore important that an applicant is aware that additional issues may arise in the course of assessing a development application that the applicant may need to address.

4.3 Applications General

The New South Wales environmental planning system is complex and technical, and other than for the simplest applications it is unlikely that a valid, adequate and conforming application can be lodged without the assistance of appropriate consultants with experience in the New South Wales planning system. Applicants are therefore encouraged to engage suitable consultants to prepare an application to maximise the chances of 'getting it right the first time'. Consultants and Private Certifiers are listed

under “Town and Regional Planning” in the Yellow Pages of the Canberra, Yass and Queanbeyan Telephone Directory.

4.4 Applicant Obligations

- 4.4.1** The onus is on an applicant to ensure that their application is valid, adequate and conforming to relevant environmental and planning legislation and Council’s local environmental plans and planning policies, codes and guidelines.
- 4.4.2** To allow Council to achieve the target decision making times previously mentioned it is essential that a valid application supported by all relevant information is submitted.
- 4.4.3** To be statutorily valid, an application must be in the prescribed form; be accompanied by the prescribed fee; include the consent of all owners; relevant plans, and all necessary supporting information (e.g. A Statement of Environmental Effects; Environmental Impact Statement etc). The pre-lodgement consultation described in Sections 4.2.2 and 4.2.3 will maximise an applicant’s ability to ‘get it right the first time’.

4.5 Decision Making

It is important for applicants to know that Council staff may under delegation:

- 4.5.1** Refuse an application if it is manifestly inadequate in terms of supporting information or clearly doesn’t conform to Council’s Planning Instruments, Development Control Plans, Policies, or Codes or hasn’t been validly lodged.

An applicant will be informed of this possibility and be given the opportunity to withdraw their application (a partial refund of fees is possible). This allows the applicant to revise the proposal and submit a fresh application which addresses the issues/concerns/areas of non-compliance identified.

- 4.5.2** Forward a letter in accordance with the relevant legislation where additional information is needed requiring that further information be submitted within 28 calendar *days from the date of the letter*. If an applicant does not provide all the required information, Council has the option of issuing **one further letter** of request for a *maximum period of 14 calendar days*. Where information requested in writing by Council is not received from the applicant by the end of the allowed period (whether extended or not) the application will be determined on the information available, which may result in the application being refused.

An applicant will be given an opportunity to withdraw the application and submit a fresh application when the requested information has been compiled.

- 4.5.3** Use, where appropriate, provisions of the relevant legislation, to impose conditions or issue a “deferred commencement” consent as an alternative to refusing an application.

Note – For any application that is “refused”, applicants have the right of appeal to the Land and Environment Court.

4.6 Further information

Further information, guidance or assistance in relation to this Policy or any planning matters, may be obtained by contacting Council’s Sustainability and Better Living Section on 6285 2165.

Other Relevant Policies/Procedures

- i. Refunding of Development Application Fees (see Information Sheet - Trim Document No C1174797).
- ii. Timeframes Allowed to Applicants to Respond to Requests for Additional Information Pertaining to Development Applications (see Resolution No 274/08 of Ordinary Meeting Minutes dated 21 May 2008 – Trim Document No C0841529).
- iii. Development Control Plan No 50 – Advertising Development and Public Notification (current DCP located in Trim Container No SF070433).
- iv. Pathways Workflow Tasks.

Basic Guide to the Development Assessment Process

1. Development Application (Application assessed by Council)

- i. Pre-lodgement enquiries with Council.
- ii. Development application checked at front counter.
- iii. Development Application is lodged and fees paid to Council.
- iv. The application is registered and an Assessing Officer assigned.
- v. An Acknowledgement Notice is issued to applicant.
- vi. Referral to relevant Government Agencies is made.
- vii. Adjoining property owners are notified of the proposed application and it is advertised if necessary.
- viii. Council conducts site inspection/s as part of the assessment of the impact of the proposed development.
- ix. Application is assessed according to Council's planning instruments (LEPs), DCPs and SEPPs and other relevant Acts and Regulations. Any submissions received are also taken into consideration.
- x. Prior to a determination by Council, Councillors and staff may inspect the development site to meet the applicant and any submitters.
- xi. If the application is *not* satisfactory, the Assessing Officer will report to a meeting of Council or supervising staff with delegation recommending refusal. Council or delegated staff will make a determination and if the recommendation is adopted, a Refusal Notice will issue.
- xii. If the application is satisfactory, Council or delegated staff will issue Development Consent subject to conditions.

2. Construction Certificate (Building) (issued by Council or an accredited certifier)

- i. Construction Certificate Application is made to the Certifying Authority (either Council or an accredited private certifier) and fees paid.
- ii. The Certifying Authority checks that the plans and specifications for the development proposal comply with the development consent conditions and applicable standards including the Building Code of Australia.
- iii. If satisfactory the certifying authority will issue a Construction Certificate (Building).

3. Construction Certificate (Civil Engineering Works – Council Certification Only)

- i. Construction Certificate application is made to the Certifying Authority (Council).
- ii. The Certifying Authority checks that the plans and specifications for the civil engineering construction works comply with the development consent conditions and applicable standards of DCP 38 – Part B-1.
- iii. If satisfactory the Certifying Authority will issue a Construction Certificate (Subdivision) and Water and Sewer Compliance Certificate.

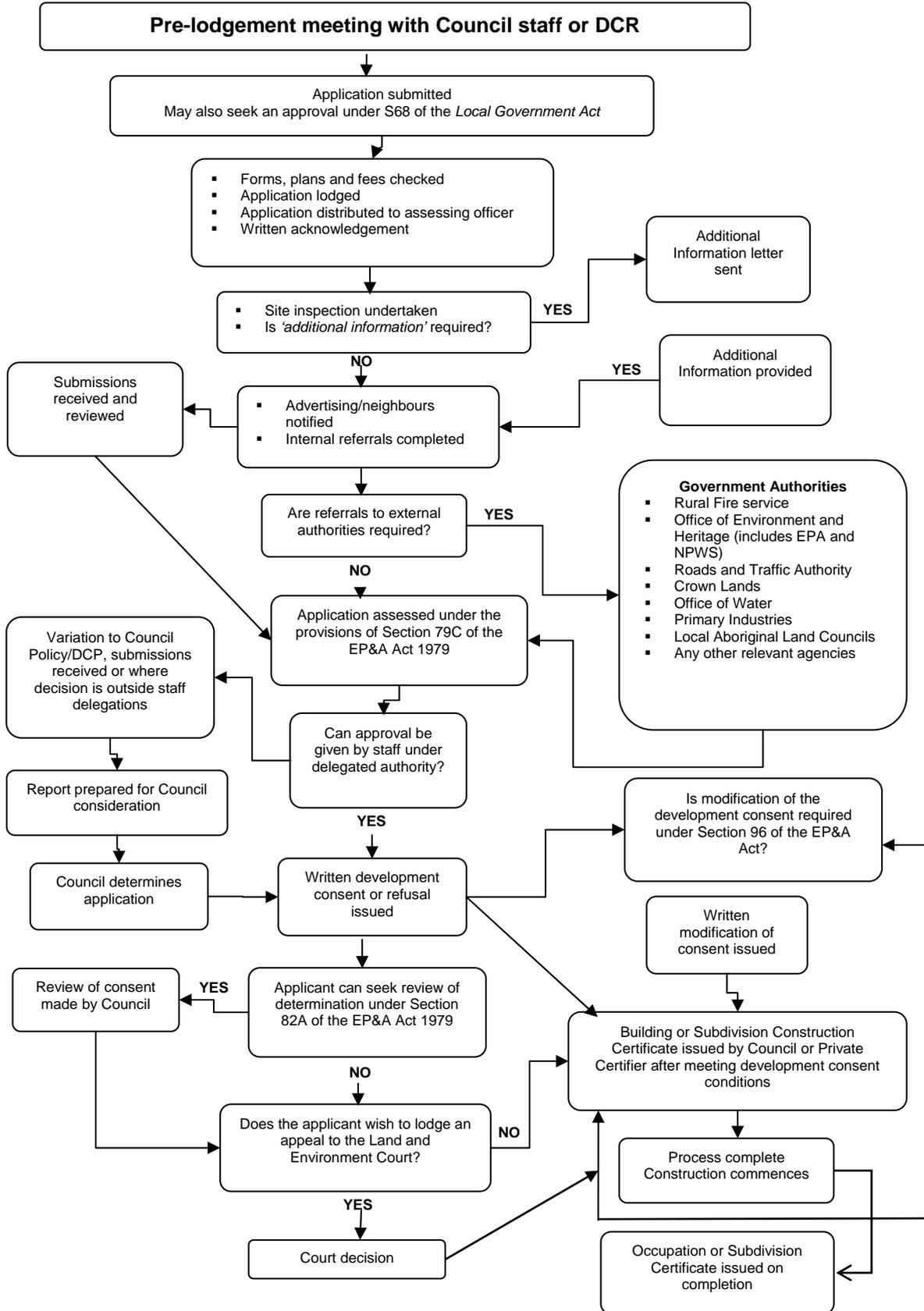
4. Before Work Begins

- i. Applicant must obtain an approved Construction Certificate issued by a certifying authority. The certifying authority can be either Council or an accredited certifier. (**Note:** In the case of subdivision Council is the Certifying Authority).
- ii. The Applicant must then appoint a Principle Certifying Authority (PCA). The PCA can be either Council or an accredited certifier. The Appointment of PCA form must be submitted to Council where Council is appointed as PCA. The applicant must sign and submit the PCA agreement form together with Form 7 (Notice of Commencement/Nomination of PCA form) to Council. Where Council is appointed PCA inspection fees are to be paid in advance to Council in accordance with Council's quote. For large construction works fees are to be paid monthly on invoice issued by Council.
- iii. Council must be notified two (2) days before work begins by submitting a Notice of Commencement Form.

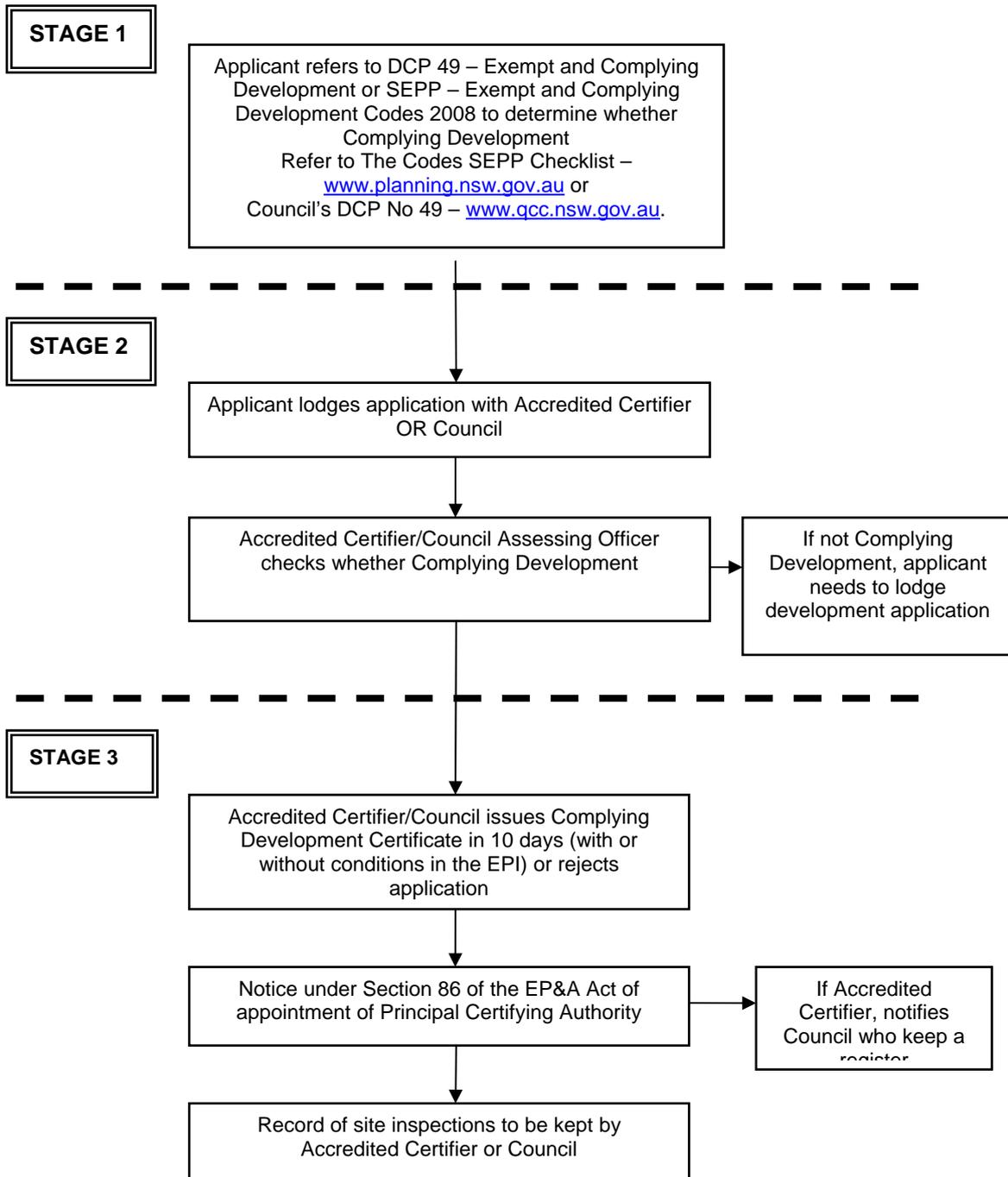
- 5. Building Work Begins (work begins in accordance with the development consent)**
 - i. Work begins in accordance with the development consent and Construction Certificate, including conditions.
 - ii. The PCA to determine inspection stages (certain mandatory inspections are specified by the *Act and Regulations*).
 - iii. The builder advises the PCA during stages of work to allow the required inspections.

- 6. Occupation Certificate (completion of works)**
 - i. After works are concluded an inspection is conducted by the PCA to determine if works have been completed satisfactorily.
 - ii. If works have not been completed satisfactorily the PCA may issue an Interim Occupation Certificate. An Interim Occupation Certificate allows occupation/use of the building but will list outstanding items to that are yet to be completed.
 - iii. Where works are satisfactorily completed an Occupation Certificate will be issued.

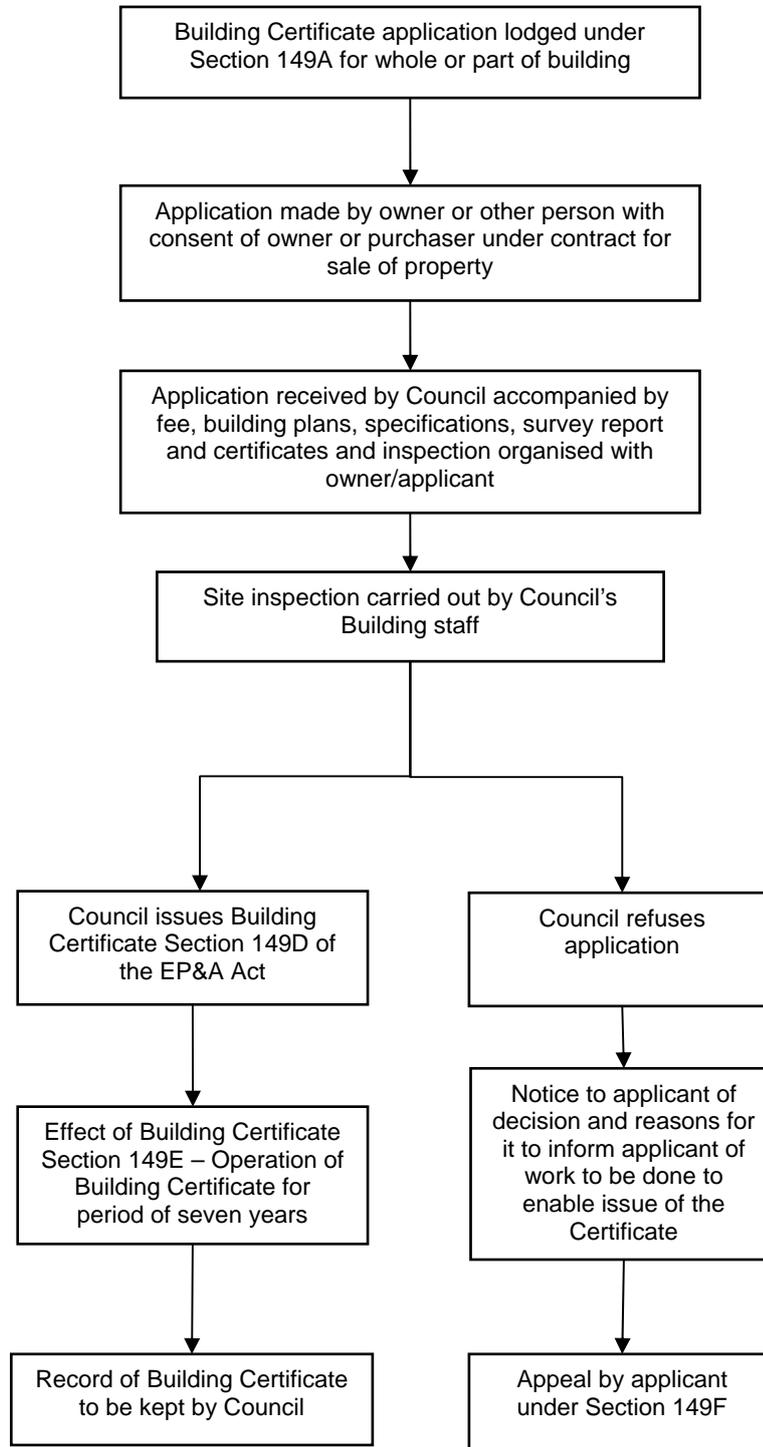
- 7. Subdivision Certificate (completion of works):**
 - i. On completion of works a Works as Executed plan must be lodged with Council.
 - ii. Once all civil engineering works and conditions of consent have been completed satisfactorily a Subdivision Certificate and Water and Sewer Compliance Certificate application will be issued by Council.



Complying development application process



BUILDING CERTIFICATE APPLICATION PROCESS



POLICY:-		
Policy No:	TBA	
Policy Title:	Application Assessment	
Date Policy was adopted by Council:	14 September 2011	
Resolution Number:	PDR 079/11	
Previous Policy Review Date:	August 2013	
Next Policy Review Date:	5 September 2016	
PROCEDURES/GUIDELINES:-		
Date Procedure/Guideline (if any) was developed:		
RECORDS:-		
Container Reference in TRIM: Policy	SF110460 and SF080616	
Container Reference in TRIM: Procedure	Intranet (linked to Trim Container)	
Other locations of Policy:	SF080616	
Other locations of Procedures/Guidelines:		
DELEGATION (if any):-		
RESPONSIBILITY:-		
Draft Policy developed by:	Manager Development Control	
Committees (if any) consulted in the development of the Draft Policy:	Nil	
Responsibility for Implementation:	All Employees	
Responsibility for Review of Policy:	Manager Development Control	
INTEGRATED PLANNING FRAMEWORK:		
Community Strategic Plan:	Strategic Priority No. 6	
Delivery Program Title:	Landuse Regulations	
Operational Plan:	Program No. 526	
Senior Authorising Officer	Position General Manager	Signature/Date  15 September 2011

ACTION	COUNCIL MEETING DATE	RESOLUTION NUMBER	REPORT ITEM NUMBER
NEW/RECONFIRMED/ AMENDED			
New	14 September 2011	PDR 079/11	Item 5

DATE REVIEWED	REVIEWER POSITION	REVIEWER NAME
September 2012	Manager – Development Control	Lorena Blacklock
August 2013	Manager – Development Control	Lorena Blacklock