

Kiama Council
Guide to carrying out Development or an Activity in the Kiama Municipality



Contents

Preface.....	4
Purpose of this guide	4
Types of development covered	4
How to use this guide	5
Part 1: Getting Started.....	6
Why is consent required?	6
Do I need consent for my development/activity?.....	6
Exempt Development	7
Complying Development.....	7
Local Development	8
Activities on or affecting Public Land	9
The planning system.....	10
Part 2: Development assessment and construction approval processes.....	14
The process and participants' roles.....	14
Stage 1: Pre-lodgement (Getting it right at the start).....	17
Putting your team together	18
Get talking to your neighbours	18
Stage 2: Lodgement and initial administration by KMC of your application.....	18
Checklist	19
Forms	19
Statement of Environmental Effects (not required for CDCs)	24
Plans.....	25
Associated documents	25
Stage 3: Assessment (What happens to my DA now?)	25
KMC's DA tracking system	25
Liaison with KMC – additional information requests	25
Stage 4: Determination (the decision).....	26
What can I do if I don't like KMC's decision?	26
Modifying your plans.....	26
Stage 5: After decision – get your certification and start (not required for CDCs)	27
Before you can start work	27
Construction Certificate and Subdivision Works Certificate	28
The role of the Principal Certifying Authority (PCA).....	28
Owner-builder	29

Home warranty insurance	30
During construction	30
Stage 6: Get your Occupation or Subdivision Certificate and celebrate	31
Glossary.....	32
Appendix 1 - Building Construction Cost Guide	36
Appendix 2 – Cost Summary Report Template.....	37
Appendix 3 – Naming Convention	38

Preface

Purpose of this guide

This guide has been prepared to support the NSW Department of Planning and Environment's (DPE) 'Your Guide to the Development Application Process' and to provide assistance in the lodgment of applications for development proposals in the Kiama Local Government Area (LGA).

This guide to carrying out Development or an Activity in the Kiama Municipality was prepared by Kiama Municipal Council (KMC) to assist in the lodgment of applications for development proposals. This guide explains the process and assists you in preparing and lodging a Complying Development Certificate (CDC) or a Development Application (DA), as well as explaining the next steps to get you building.

This Guide is to be read in conjunction with DPE's 'Your Guide to the Development Application Process'.

Types of development covered

There are several types of approval that you may require to carry out your development or activity.

There are nine different planning approval pathways in NSW under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The size and scale of the development will determine which of the assessment pathways is appropriate. The three most common approval pathways are: Exempt Development, Complying Development and Local Development.

This guide is most relevant to small local development including:

- erect a new building or structure – including dwellings, garage/carport, shed, swimming pool, retaining walls, etc.
- add to or alter an existing building.
- demolish a building.
- demolish, damage or alter a building or place that is a heritage item or that is within a heritage conservation area.
- subdivide land or strata, subdivide a building.
- carry out earthworks, excavation or filling.
- change the use of an existing building, premises or land – eg changing the use of an existing shop front from a real estate office to a convenience store or changing office space to a hairdressing salon.
- display an advertising sign.

This guide also deals with development/activities that require consent from KMC. It does not deal with State significant development determined by or on behalf of the Minister. It briefly describes exempt development to make you aware of that approval pathway.

How to use this guide

This guide has been set out in a similar way to the DPE's 'Your Guide to the Development Application Process'. Where necessary additional commentary has been provided to assist in the lodgment of applications for development proposals in the Kiama LGA.

Part 1 provides an overview of the NSW planning system to inform you and allow you to better participate in the development assessment process.

Part 2 describes the process to obtain development consent, either as part of a DA or CDC. The process is described in stages:

[Stage 1](#)

Provides an overview of the pre-lodgment phase of the development process.

[Stage 2](#)

Clarifies the different parts of the application forms and checklists.

[Stage 3](#)

Outlines how to keep informed during the assessment process.

[Stage 4](#)

Explains the different options an applicant can take if they are dissatisfied with their determination.

[Stage 5](#)

Clarifies the different certification processes, including the role of the Principal Certifying Authority.

[Stage 6](#)

Clarifies the final steps in completing your development.

You can work through the guide from start to finish or go straight to the step that is relevant to you.

The guide explains the different approval types for development and activities and how to prepare the relevant applications. The information and tips will help you avoid potential pitfalls.

Please note that compliance with this guide does not mean your application/s will be approved.

To enable an accurate and efficient assessment of your application KMC strongly recommends that you:-

- consult KMC's Development Assessment Team before lodging an application, to determine your proposal's specific requirements. KMC staff can advise you on relevant planning and building controls and provide preliminary advice on your proposal (see *General Advice* under Stage 1)
- ensure your application is fully completed and includes all the details, plans and documentation required. (Refer to KMC's DA checklists)

- engage the services of a qualified town planner to prepare the relevant plans and documentation. This is equally relevant for more complex developments.

Part 1: Getting Started

Why is consent required?

A development consent permits a new building/activity that will change our environment, and may affect our amenity or the amenity of those around us.

Consent is required to:

1. manage change to ensure that developments do not negatively impact the environment
2. balance public and private interests by ensuring a new development fits the character of the Kiama area and sits comfortably within the 'public domain' (e.g. streets, laneways or public reserves)
3. provide an impartial process which allows interested members of the community to raise issues, to ensure a balanced and considered outcome for all
4. ensure that the hard infrastructure (e.g. stormwater drainage, car parking and power supply) and soft infrastructure (e.g. trees and landscaping) needed for your development are provided
5. ensure that your building is structurally safe, protected from fire and has appropriate access to sunlight and ventilation.

Do I need consent for my development/activity?

The NSW planning system has a risk based approach to development. The type of consent or approval you require, if any, depends upon the scale and potential impacts of your development (such as on traffic, noise, privacy and solar access) on adjoining properties. There are three assessment pathways that may apply to small residential development: exempt development; complying development; and development that requires consent from a consent authority.

Assessment Pathway

	Pathways		
	Exempt Development	Complying Development	Development Consent
Level of Approval	No approval	Approval by issue of CDC by Council or private certifier.	Council consent
Potential impact	Minimal environmental/amenity impact	Predictable environmental/amenity impact	Could be major environmental/amenity impact
Level of assessment	Must comply with pre-set standards	Must comply with pre-set standards	Merit assessment

Exempt Development

Many types of minor home renovations and small building projects such as the erection of a carport, balcony, deck or garden shed don't need a planning or building approval. These types of projects are called exempt development. As long as the building project meets specific development standards and land requirements, no planning or building approval is needed.

Complying Development

Other straightforward, low impact residential, commercial and industrial developments that do require planning approval may qualify for a fast track approval process known as complying development. If the application meets specific standards and land requirements a CDC can be obtained through KMC or an accredited certifier without the need for a full development application.

There are several Environmental Planning Instruments (EPIs) that contain development standards for Complying Development.

State Environmental Planning Policy (SEPP) (Exempt and Complying Development Codes) 2008

- Housing Code
- Rural Housing Code
- Housing Alterations Code
- General Development Code
- Commercial and Industrial Alterations Code
- Commercial and Industrial (New Buildings and Additions) Code
- Container Recycling Facilities Code
- Subdivision Code
- Demolition Code
- Fire Safety Code
- Low Rise Medium Density Housing Code (after 6/7/18)

SEPP (Affordable Rental Housing) 2009

- Secondary Dwellings
- Group Homes

SEPP (Infrastructure) 2007

- Correctional Centres and Correctional Complexes
- Electricity Generation Works or Solar Energy Systems
- Health Services Facilities
- Port, Wharf or Boating Facilities
- Telecommunications and other Communication Facilities

SEPP (Educational Establishments and Child Care Facilities) 2017

- Home-based Child Care Facilities
- Out-school hours care at existing universities
- Out-school hours care at existing TAFE Establishments
- School-based child care
- Existing Schools
- Existing Universities
- Existing TAFE Establishments

The State Environmental Planning Policies (SEPPs) contain the relevant development standards that must be complied with in order to meet the requirements for complying development.

Applications for CDCs combine the DA and CC processes into one approval process.

For further information about **Exempt and Complying Development**, visit the [NSW Planning Portal](#).

Local Development

Local development is the most common type of development in NSW, with projects ranging from home extensions to medium sized commercial, retail and industrial developments. A development is considered local development if a local environmental plan (LEP) or SEPP states that development consent is required before the development can take place. Development consent is obtained by lodging a DA.

Common types of development that are applied for include:

Residential Development	Other
Low Density Residential	New Commercial/Business Building
Single Dwelling	Commercial/Business Fit-out
Alterations/additions	Food & Drink Premise
Secondary Dwelling	New Industrial Building
Dual Occupancy	Industrial Fit-out
Outbuilding (garages, carports etc.)	Community/Education Facilities
Medium Density Residential	Residential Subdivision
Multi-dwelling Housing	Rural Subdivision
Residential Flat Buildings	Boundary Adjustment
Seniors Living	Temporary Use
Shop Top Housing	Mixed Use

Activities on or affecting Public Land

Certain development/activities may also require approval under the *Local Government Act (LG Act) 1993*. In the Kiama Municipality approvals under the LG Act are generally limited to:

- installation of a manufactured home
- management of waste in public places
- installation & operation of an on-site sewage management system
- use of community land
- swing goods over a public road
- operate a caravan park, camping ground or manufactured home estate
- install a domestic oil or solid fuel heating appliance
- install or operate an amusement ride
- operate a mobile food van in a public place.

Activities relating to water supply, sewerage and stormwater drainage, do not apply to the Kiama Municipal Council local government area. Approval for these types of activities are governed by Sydney Water under the *Sydney Water Act 1994*.

Under Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) a person can apply to KMC for both a development consent and an approval under the LG Act in the one DA.

KMC's DA Form enables applicants to apply for approval under the LG Act as part of their DA. KMC's Activities Application Form enables applicants to apply for approval under the LG Act separately. KMC's Activities Application Form is available on [KMC's Website](#) or from KMC's Administration Building. KMC's Activities Application fees can be viewed in KMC's [Fees and Charges](#) or requests for fee quotes can be made through KMC's Customer Service Team.

The planning system

State and local planning legislation and policies set the rules that control what development can occur on your land. The planning system has a hierarchical structure with the EP&A Act sitting at the top of the hierarchy, as shown below.

1. **Environmental Planning and Assessment Act 1979 (EP&A Act)**

The EP&A Act sets up the framework for the planning system as follows:

1. how rules affecting development are made;
2. how development is assessed against those rules.

2. **Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)**

The EP&A Regulation details certain processes that must be followed by KMC when assessing a DA. It specifies more detailed matters for consideration and also regulates the fees that can be charged to receive and assess a DA.

3. **Environmental Planning Instruments (EPIs)**

EPIs introduce controls and requirements for specific issues and places in the Kiama local government area. There are two types of EPIs:

1. **State Environmental Planning Policies (SEPPs)** deal with issues that are of importance to the whole State. Some SEPPs will be of relevance to your DA. An example that may apply to you is:

- SEPP (Building Sustainability Index: BASIX) 2004: sets standards for sustainable development (e.g. energy efficiency, water tanks).

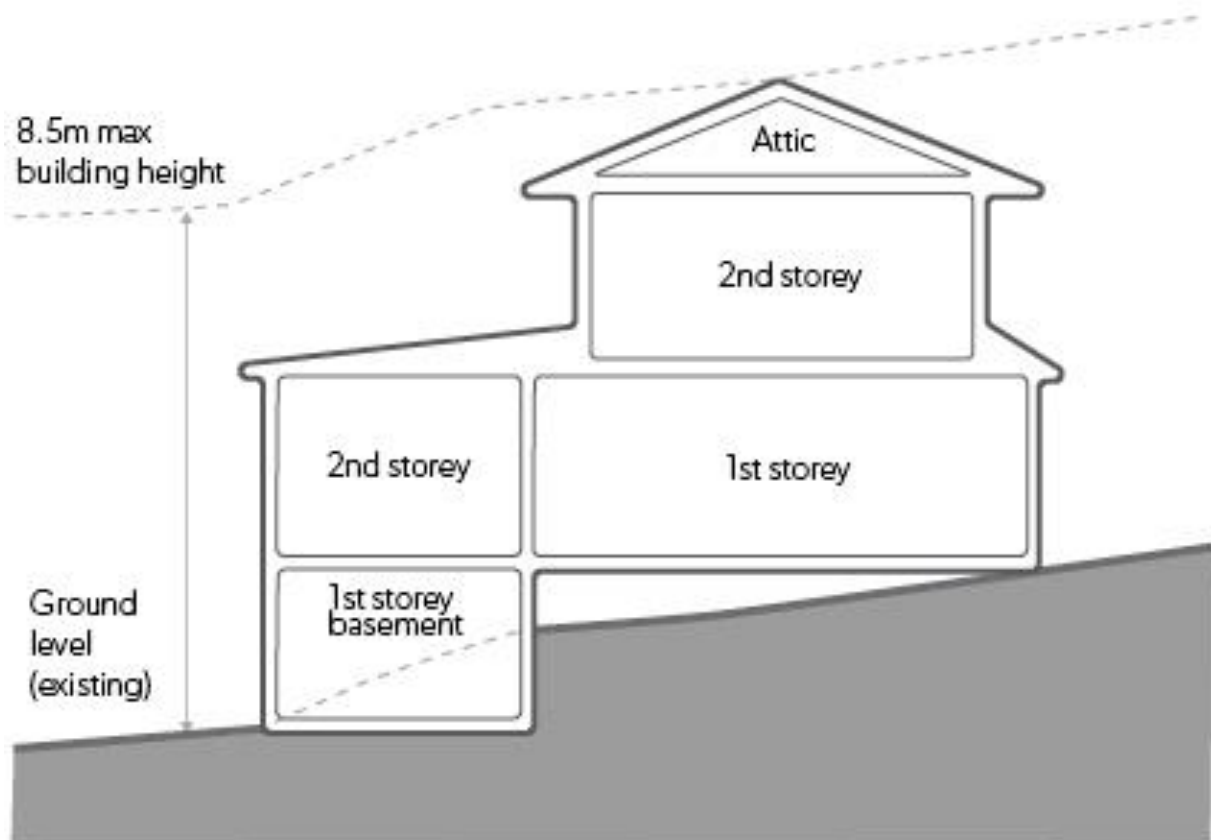
While some SEPPs will be of relevance to your CDC. An example that may apply to you is:

- SEPP (Exempt and Complying Development Codes) 2008: sets standards for different types of complying development (e.g. setback, building heights etc.).

2. The **Kiama Local Environmental Plan (LEP) 2011** does four main things:
 - **Zones land to specify what development is permissible without consent, permissible only with consent or prohibited in the zone.** Your site is most likely zoned as 'residential' or 'rural' which means that new houses, alterations and additions, and possibly dual occupancies and secondary dwellings, are allowed to be built.
 - **Identifies whether your house or the area it is situated in has heritage significance.** If you live in a historic home (heritage item) or area (a conservation area), you are looking after a piece of Australia's

history. This means you may have to take extra design care in planning your changes.

- **Identifies special matters for consideration.** There may be specific environmental issues e.g. flooding, bushfire, acid sulfate soils and environmentally sensitive land that may affect your site. Such issues should be addressed in any DA and may limit the extent or location of the development on the site.
- **Identifies the principal development standards.** The principal development standards control the size and form of development. For construction the relevant standards for you are:
 - Maximum building height.



Example: Maximum height of building 8.5m

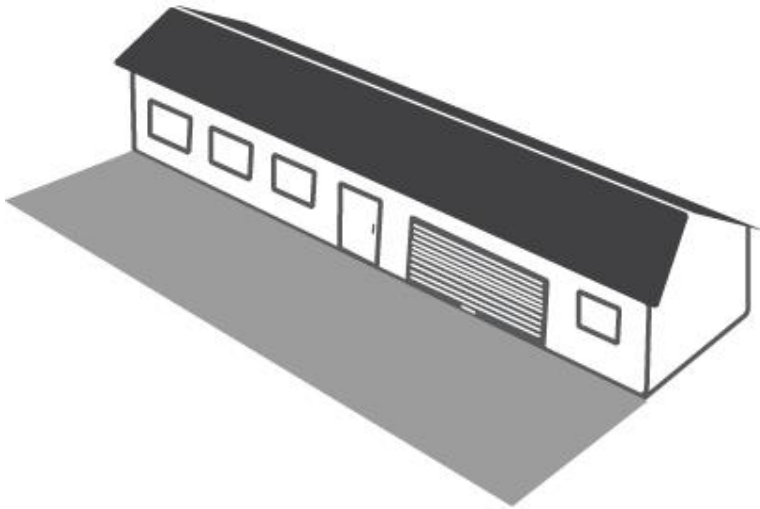
- Maximum Floor Space Ratio (FSR).

Floor Space Ratio can be a difficult concept to visualize. Maximum FSR is the floor area you may build compared to the total area of the block.

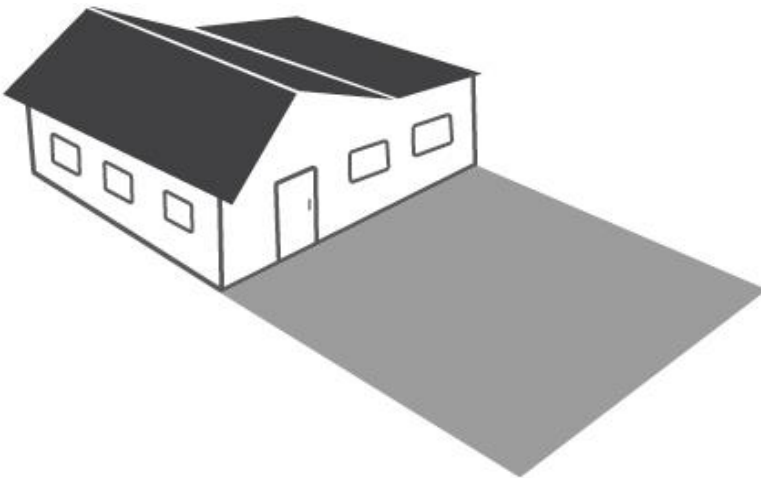
The following simple examples show how an FSR of 0.5:1 can be achieved on a single lot.

For an FSR of 0.5:1 If site area = 1000m² Floor area allowed = 500m²

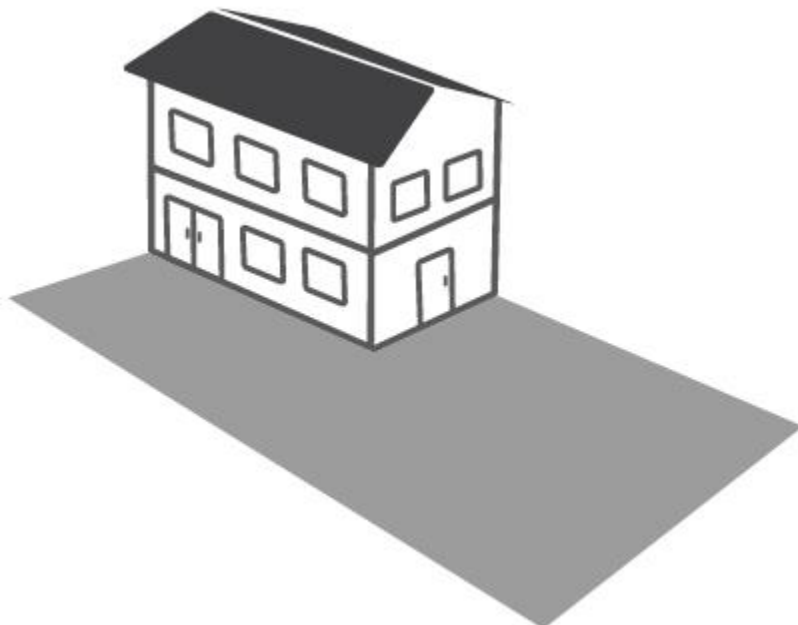
Example 1 – One storey building 50% of site, floor area 500m²



Example 2 – One storey building 50% of site, floor area 500m²



Example 3 – Two storey building 25% of site, floor area 500m²



The combination of standards like height, FSR and setbacks, combined with your site's physical features will determine how big your house can be and where it will be located on your block.

Variations to Development Standards

Development standards may be varied by KMC. You can request a variation under clause 4.6 of the LEP, however, KMC will not do this lightly and you must clearly justify why any change should occur.

If the development standards prevent appropriate development of your site and you believe the impact of your development is reasonable then you should contact KMC to find out if a variation is likely to be approved.

For further information see the Department's document *Varying development standards: A Guide* by visiting www.planning.nsw.gov.au/vdsguide

4. Kiama Development Control Plan (DCP) 2020

While the rules set out in LEPs and SEPPs are most important, more detailed design and planning requirements are provided in the Kiama DCP 2020. Here you will find information in simple language, with diagrams and pictures on issues including:

- building design, siting and size
- access to sunlight
- view sharing
- landscaping
- car parking
- heritage
- stormwater treatment
- waste management
- fences and walls.


The DCP provides guidance only, which means there can be flexibility to make variations when supported by a good argument in your DA.




Part 2: Development assessment and construction approval processes

The process and participants' roles

There are six general stages associated with the two approval processes. There are a number of participants who have involvement across those stages. The stages, participants, roles and responsibilities are summarised in Figure 1 below:

Figure 1. Participants and roles by stage in the process

Stage	Participant	Responsibilities
Approval Process		
1. Pre-lodgement 	You	Start dreaming
		Be informed
		Jump online
		Get your team together
		Chat to neighbours and KMC in advance
	Neighbours	Raise issues, concerns and support
	KMC officers	Provide accurate advice and identify reports required
	Your team	Prepare reports/plans
		Compile application
	You	Submit 'assessment ready' DA or CDC
KMC administration staff	Register application	
KMC officers	Review submitted information and request fees	
You	Pay fees	

2. Lodgement 	KMC officers	Application allocated to assessing officer
		Referrals – to internal experts and State agencies (not for CDCs)
		Formal notification to neighbours and community (not for CDCs)
3. Assessment 	KMC assessing officer	Assess application
		Review submissions/referrals (not for CDCs)
		Request additional information
	KMC referral officers	Provide timely advice, consistent with any pre-lodgment advice
	You	Let KMC assess
		Provide additional information
		Remain patient
	Neighbours	Make informed comments (not for CDCs)
	Community	Make informed comments (not for CDCs)
	State agencies	Provide timely comment/agreement (not for CDCs)
4. Determination 	KMC officer or Councillors	Make timely decision
		Provide achievable conditions
	KMC assessing officer	Advise you of decision
	You	Read conditions
Apply for Construction Certificate (CC) (not for CDCs)		

Construction Phase

5. Certification



You

Get CC or Subdivision Works Certificate (not for CDCs)

Get Owner/Builder Permit if required

Get Home Owners Warranty

Appoint Principal Certifying Authority (PCA)

Remain informed

Certifiers (KMC or private)

Issue CC or Subdivision Works Certificate (not for CDCs)

Make inspections

Builder and sub-contractor

Build as per plans

Arrange inspections

6. Completion



PCA

Issue Occupation Certificate (OC) or Subdivision Certificate

KMC

Take action if problems arise

You

Celebrate

Stage 1: Pre-lodgement (Getting it right at the start)

Advice from KMC Staff

General Advice

KMC's Development Assessment staff can answer general enquiries over the phone including:

- relevant design guidelines and objectives - you need to know the relevant parts of the DCP
- development Standards - you need to know how the LEP affects your development, eg zoning, etc.
- site constraints
- heritage status
- other approvals needed
- building Regulations and Construction Certificates
- other matters that you will need to consider when designing your proposal.

KMC's Development Assessment staff are available for brief consultations and to provide general advice at KMC's Customer Service counter between 8.45am and 11am Monday to Friday.

Appointments may be made outside these hours, subject to availability. KMC staff can only provide high-level advice and cannot assist in the preparation of your application or the supporting documents.

Development Assessment Unit (DAU)

Before submitting a DA, if your proposal has an estimated valued exceeding \$1 Million or is overly complex, you should attend a Development Assessment Unit (DAU) meeting to discuss your proposed development and address any issues.

The DAU team includes our:

- Development Assessment Coordinator
- Building Assessment Coordinator
- Landscape Officer
- Subdivision and Development Engineer.

KMC's DAU also invites professionals from other KMC departments depending on the type of proposal to be discussed.

KMC's DAU generally meets on Wednesday afternoons to discuss development proposals that require referral and assessment by each member.

All proposed development for Medium Density Residential must be considered at a DAU meeting. A fee, in accordance with KMC's current fees and charges will also be charged for a design assessment by an independent architect, appointed by KMC to provide written advice and attend the designated DAU meeting, on the design/character issues of the proposed Medium Density Development.

Request a DAU meeting by completing the [DAU meeting form](#), providing a planning policy compliance checklist, concept plans and cover letter outlining any anticipated issues and emailing it to council@kiama.nsw.gov.au

Putting your team together

To enable an accurate and efficient assessment of your application KMC strongly recommend that you engage the services of a qualified town planner to prepare the relevant plans and documentation. This is equally relevant for more complex developments.

Get talking to your neighbours

As a fast track approval process, KMC or a private certifier are not required to notify your neighbours of any applications for CDCs. The only notification associated with the CDCs process is informing neighbours of imminent construction works. It is particularly important to talk to your neighbours in this instance to avoid complaints during the construction process.

KMC's notification policy is contained in the DCP 2020. KMC will generally notify your direct neighbours once the DA is lodged.

Stage 2: Lodgement and initial administration by KMC of your application

It is **your responsibility** to provide all the required information and to make sure your DA provides enough detail to enable KMC to make a decision. Getting this right will save you and KMC time and money. KMC will not accept a DA or CDC unless the minimum requirements have been satisfied. It is recommended that you engage the services of a qualified town planning consultant to assist you in preparing the required plans and documentation to support your DA or CDC.

When you have filled out all the required forms and collated the necessary information you can lodge your application with KMC. A completed DA or CDC will generally include:

- KMC's DA form and checklist or KMC'S CDC form
- all plans & documents outlined in the relevant KMC checklist
- the required DA or CDC fee.

The EP&A Regulation sets out the fees for DAs and CDCs. These can be viewed in KMC's [Fees and Charges](#) or requests for fee quotes can be made through KMC's Customer Service Team.

The actual plans and other supporting documentation required for your proposal will depend on the type of development proposed. KMC requires the submission of the information outlined in the relevant KMC checklist as a minimum. KMC may require additional information to that stated to assess an application.

Lodgement:

KMC requires all information to be submitted in an electronic format by email or by the NSW Planning Portal. All documents are to be saved as separate PDF files no bigger than 20MB each. When documents exceed this size they are to be saved in parts and labelled accordingly. KMC requires all documents to be labelled in accordance with KMC's Naming Convention appended to this Guide ([Appendix 3](#)).

Checklist

All DAs must be accompanied by a completed Development Application Form and all information required by the relevant Development Application Checklist.

The Development Application Checklist outlines the specific requirements for your development and forms part of your development application. You must ensure that you complete all sections of the checklist. This will ensure you have all the plans and supporting documents needed to lodge your DA.

All CDCs must be accompanied by a completed Complying Development Certificate Form. KMC's Complying Development Certificate Form outlines the information that needs to accompany an application for a CDC. You must ensure that you provide all the information outlined on the form. This will ensure you have all the plans and supporting documents needed to lodge your CDC.

The Development Application Form, Checklists and Complying Development Certificate Form are available on [Council's Website](#) or from KMC's Administration Building.

Forms

KMC's Development Application and Complying Development Certificate Forms are broken into two (2) parts:

Part A – Personal Information

Part B – Proposed Development

Each Part of the Forms are to be saved and submitted as two (2) separate PDF files.

Part A – Personal Information

Part A – Personal Information of the Development Application and Complying Development Certificate Forms contains all the personal and confidential information that is required by KMC in order to lodge and process your application. Part A of the form will not be made publicly available.

Consent of Owners

KMC is not able to accept your Development Application without the full consent of ALL landowners.

If works are being carried out in a Strata complex the Strata Title body corporate may need to grant owners' consent. Prior to carrying out works in a Strata complex it is encouraged that you discuss your proposal with the Strata complex. If the Strata Title body corporate owner's consent is required the application must be signed by an authorised person under the common seal of the body corporate.

If the owner is a company; either the signature of an authorised person identifying their office held, signed under the company seal, or if no company seal; two directors' signatures and their office held, one director and a company secretary and their office held, or in the case of a proprietary company that has a sole director who is also the company secretary – that director's signature and office held.

Applicant Declaration

For both types of applications you are required to declare that you have submitted the application in accordance with all of KMC's requirements.

For DAs you must declare any reportable political donations to a Councillor and/or any gift to a Councillor or KMC employee made within the last two (2) years of lodging the application. This includes:

- Political donations of \$1,000 or more (or smaller donations totaling \$1,000 or more); or
- Gifts as defined by the Election Funding and Disclosures Act 1981

You must also declare any conflicts of interests.

Part B – Proposed Development

Part B – Proposed Development of the Development Application and Complying Development Certificate Forms asks for a description of the proposed development.

Cost of Development

This is the estimated total cost of any construction, internal fit-out and demolition, including GST and labour. Developments with no construction work such as subdivisions or change of uses have a separate standard fee and no estimated cost is required.

For development with an estimated cost between \$100,000 and \$1 Million a cost summary report prepared by the applicant or a suitably qualified person is to be supplied. KMC has prepared a template Cost Summary Report that can be used when providing your estimated cost to KMC. KMC's template Cost Summary Report is appended to this Guide ([Appendix 2](#)).

For development with an estimated cost exceeds \$1 Million a Quantity Surveyor's Report prepared by a registered Quantity Surveyor.

Development Application Form

Part B of the Development Application Form asks you if any additional approvals are required. Part B of the Development Application Form asks the following questions:

Have you received pre-lodgement advice?

Please indicate if you have received any pre-application advice from KMC, by either a DAU meeting or meeting with an assessment officer. KMC encourages you to come and obtain advice from us before lodging your application.

Is this a Concept Development Application?

A Concept Development Application enables an applicant to request that the development be set out in separate stages. Details of the first stage must be submitted with the initial application. The initial application will grant 'tacit' approval for the subsequent stages. Subsequent applications will be required for the other stages

Is this a Designated Development?

A development that is likely to have significant impact on the environment is subject to special regulatory procedures. Designated Development includes industries that have a high potential to pollute, large scale developments and developments that are located near sensitive environmental areas such as wetlands. A list of designated developments is provided in [Schedule 3](#) of the Environmental Planning and Assessment Regulation 2000.

Special procedures apply to Designated Development including:

- an Environmental Impact Statement [EIS] must be prepared and submitted with application
- there is a 30 day public exhibition period
- third party objectors have a right of appeal.

Applications for Designated Development are rare and are determined by KMC unless declared to be State Significant Development.

Does this development require State Government Concurrence?

Section 4.13 of the *Environmental Planning and Assessment Act 1979* requires KMC to consult with and obtain the agreement of a State Agency for certain developments prior to determining the development application. For example variations to the development standards of the *Kiama Local Environmental Plan 2011* often require the agreement of the Department of Planning & Environment.

Does this development affect Critical Habitat?

You need to indicate if your land is, or is part of, critical habitat. You also need to indicate if your development is likely to significantly affect threatened Species, populations or ecological communities. In existing residential areas this it is unlikely for this to occur.

In rural areas you should speak to KMC first to find out if your land is likely to contain threatened species, populations or ecological communities. You can also use the NSW Office of Environment & Heritage's [BioNet](#) system to find out more information about your property.

Does this development require a Biodiversity Development Assessment?

The applicant is required to indicate if their application is accompanied by a biodiversity development assessment report, as required by the *Biodiversity Conservation Act 2016* (BC Act). A biodiversity development assessment report is required if the development includes clearing of native vegetation above a threshold prescribed by the regulations under this Act. The BC Act, and the *Biodiversity Conservation Regulation 2017* (BC Regulation), outline the framework for addressing impacts on biodiversity from development and clearing. The framework requires a proponent to avoid, minimise and offset impacts on biodiversity from development using the Biodiversity Offsets Scheme (BOS). The NSW Office of Environment & Heritage's (OEH) [website](#) contains additional guidance for biodiversity development assessment.

Is this development an Integrated Development?

Any development may also be classed as an Integrated Development. Integrated Development is defined by the EP&A Act as development which needs a Development Consent and one or more additional approvals under other Acts. The type of approval needed, and the agency it is needed from, varies. It is the applicant's responsibility to determine which approvals are needed.

Development that involves or relates to any matter such as bush fire-prone lands, heritage, roads, pollution, river and lakes, using water, aboriginal relics and places may be 'Integrated Development'.

Applications for Integrated Development will be referred to the relevant agency by KMC to obtain their 'general terms of approval'. These requirements will then be incorporated in the conditions of any development consent issued by KMC.

Examples of relevant agencies and the applicable Acts are:

<u>Coal Mine Subsidence Compensation Act 2017</u>	• Subsidence Advisory NSW
<u>Fisheries Management Act 1994</u>	• Department of Primary Industries - Fisheries
<u>Heritage Act 1977</u>	• Office of Environment and Heritage • Heritage Council of NSW
<u>Mining Act 1992</u>	• NSW Resources & Energy
<u>Protection of the Environment Operations Act 1997</u>	• Environment Protection Authority
<u>Water Management Act 2000</u>	• Department of Industry – Water • WaterNSW
<u>Roads Act 1993</u>	• Roads and Maritime Services
<u>Rural Fires Act 1997</u>	• Rural Fire Service

For more information please refer to [Section 4.46](#) of the EP&A Act.

Integrated Development Applications require additional information and fees.

Does this development require approval under the Local Government Act 1993? Under Section 4.12 of the EP&A Act a person can apply to KMC for both a development consent and an approval under Section 68 of the [Local Government Act 1993](#) in the one DA. Section 68 approvals include:

- manufactured/movable dwellings
- management of waste
- use of Community Land
- use of Public Roads
- installation and operation of domestic oil or solid fuel heaters
- using a standing vehicle in a public place for retail.

Activities relating to water supply, sewerage and stormwater drainage, do not apply to the Kiama Municipal Council local government area. Approval for these types of activities are governed by Sydney Water under the *Sydney Water Act 1994*.

Complying Development Certificate Form

Part B of the Complying Development Certificate Form asks you to outline what type of Complying Development you are applying for. The most common types of Complying Development are listed above. Part B of the Complying Development Certificate Form outlines the information that needs to accompany each type of Complying Development. You must ensure that you provide all relevant information outlined on the form. This will ensure you have all the plans and supporting documents needed to lodge your CDC.

Statement of Environmental Effects (not required for CDCs)

The EP&A Regulation specify that a Development Application must be accompanied by a Statement of Environmental Effects (SEE) except in the case of Designated Development. A SEE is not required for CDCs.

A SEE is a detailed report outlining the likely environmental impacts of the development and the proposed measures to be taken to lessen this impact. The statement must address all the issues that are applicable to your proposal. The amount of information required will depend on the type and scale of your application and will include:

- a description of the site and surrounding locality
- present and previous uses of the site
- existing structures on the land
- a detailed description of the proposal
- operational and management details
- reference to the provisions of any applicable SEPPs, and the LEP (including the zoning of the land and any non-compliances)
- reference to the provisions of any draft SEPPs or LEPs (that are or have been placed on public exhibition)
- reference to the provisions of any applicable DCPs (including documenting any non-compliances)
- the likely impacts of the development (including environmental impacts on both the natural and built environments, and social economic impacts in the locality;
- the suitability of the site for the development
- the public interest.

Your SEE should clearly demonstrate that in designing your proposal, you have fully considered the site constraints and the applicable legislative provisions. KMC will not accept your Development Application without an adequate and legible SEE. A SEE that does not include the required information may cause delays in the processing of your application. It is recommended that you engage the services of a qualified town planning consultant to prepare the SEE on your behalf.

KMC requires the SEE to be submitted electronically. The SEE is to be saved as a separate PDF file no bigger than 20MB. When SEEs exceed this size they are to be saved in parts and labeled accordingly.

Plans

The actual plans required for your proposal will depend on the type of development proposed and are listed on the Development Application Lodgement Checklist or the Complying Development Certificate Form.

KMC requires all plans to be submitted electronically. Each set of plans is to be saved as a separate PDF file no bigger than 20MB each. Each set of plans is to be titled in accordance with KMC's Naming Convention appended to this Guide ([Appendix 3](#)).

It is important that when shadow diagrams are required they show how the shadow associated with the proposed development impacts on windows, private open space and solar panels/hot water systems on neighbouring dwellings.

Associated documents

The associated documents required for your proposal will depend on the type of development proposed, the constraints of the site and the complexity of the DA. The particular types of associated documents are listed on the relevant DA Checklist.

KMC requires all associated documents to be submitted electronically. Each associated document is to be saved as a separate PDF file no bigger than 20MB each. Each associated document is to be titled in accordance with KMC's Naming Convention appended to this Guide ([Appendix 3](#)).

Stage 3: Assessment (What happens to my DA now?)

KMC's resources and the assessment officer's time is best spent assessing your application. Assessment officers usually have a lot of applications to assess and frequent calls will slow this process. It's recommended that you wait for your assessment officer to contact you. If there is a significant issue or need for clarification, your assessment officer will contact you (the applicant). KMC strives to determine straightforward and complete applications in 40 days or less. Incomplete applications will result in delays.

If you have engaged someone else to be the applicant on your behalf then KMC will contact them, not you (e.g. consultant, project home group). KMC staff are only able to discuss matters relating to the application with the nominated applicant.

KMC's DA tracking system

You can consult KMC's online [DA Tracker](#) to monitor the progress of your DA or CDC. The system will give the public access to the exhibition materials.

Liaison with KMC – additional information requests

If you get the initial submission right then the assessment officer will most likely have all the information required to make a decision. However, it may be necessary for the assessment officer to contact the applicant and request clarification or additional information.

Stage 4: Determination (the decision)

What can I do if I don't like KMC's decision?

Application refusal

If your DA is refused or granted with unacceptable conditions you have three options all of which will require some time and cost:

- request a review of determination
- commence an appeal to the Land and Environment Court (LEC)
- amend your proposal and relodge.

If your CDC application does not comply with the relevant development standards KMC will be unable to issue a determination and will encourage you to withdraw your CDC application and lodge a DA or amend your design in order to comply.

Reviews (not applicable for CDCs)

Division 8.2 of the EP&A Act enables applicants to request KMC to review its original determination. In requesting a review, the applicant may amend the proposed development and/or provide additional information. KMC will only review its original application if it is satisfied that it is substantially the same development.

The applicant must request a review within 6 months after the original determination is made if no appeal is made to the LEC.

The Review of Determination Form is available on [KMC's Website](#) or from KMC's Administration Building. The EP&A Regulation sets out the fees for a request for a review of the determination. These can be viewed in KMC's [Fees and Charges](#) or requests for fee quotes can be made through KMC's Customer Service Team.

Appeals

Division 8.3 of the EP&A Act enables applicants who are dissatisfied with the determination to appeal to the LEC. The applicant can only appeal the decision within six (6) months after the original determination is made.

The Appeals process is a costly exercise for both the applicant and KMC and expands considerable financial resources. The Appeals process should only be entered into as a last resource.

Modifying your plans

If you wish to make changes to your approved plans (or the conditions), you can submit an application for a Modification of Consent (under section 4.55 of the EP&A Act). This may be needed if you change your mind on particular aspects of the development. The development you seek to modify must remain very close to the original development that consent was granted for. If the application varies too much from the original consent a new DA must be lodged. Modifications can be time consuming and cost additional fees. Getting the intended outcome right in the initial DA is much easier.

There are three main types of modifications that can be applied for under separate parts of the EP&A Act:

4.55(1) This type of modification is used to correct minor errors, misdescriptions or miscalculations contained in the consent notice and does **not** include any physical alterations to the building.

4.55(1A) This type of modification is used for minor variations, which will have minimal environmental impact, to either the physical appearance of the building or conditions which were accurately imposed. Examples of this might include:

- Modification to internal floor layouts/levels of buildings
- Modification to external colours or materials of buildings
- Changes to hours of operations

4.55(2) This type of modification is used for all other types of variations. The modifications needs to ensure that it remains substantially the same as what was approved.

KMC's Application to Modify Consent Form is available on [KMC's Website](#) or from KMC's Administration Building. The EP&A Regulation sets out the fees for an application for modification of consent. These can be viewed in KMC's [Fees and Charges](#) or requests for fee quotes can be made through KMC's Customer Service Team.

Stage 5: After decision – get your certification and start (not required for CDCs)

Before you can start work

While receiving your development consent is worth celebrating, it does not mean that you can start building work. Before you can start work you must do four things:

1. Get a:
 - Construction Certificate (CC) – building approval from KMC or a private certifier, or
 - Subdivision Works Certificate – engineering works approval from KMC
2. Appoint a Principal Certifying Authority (PCA) to monitor construction – this can be KMC or an accredited certifier.
3. Give KMC and the PCA two days' notice before you start work.
4. Complete any works listed in the 'Prior to commencing work' part of the consent.

Applications for CDCs combine the DA and CC processes into one approval process. The certification process outlined in this section is carried by KMC or a private certifier when issuing a CDC.

Construction Certificate and Subdivision Works Certificate

Construction Certificates (CCs) and Subdivision Works Certificates can be obtained from either KMC or a private certifier, and includes your detailed building plans/engineering details and specifications. The plans will most likely contain a lot more information than your approved DA plans, to allow your builder/contractor to work directly from them.

CCs enable the certification of buildings while Subdivision Works Certificates certify civil engineering works (i.e. road and stormwater infrastructure) associated with subdivisions.

In order to obtain either Certificate you may be required to first provide additional reports and pay refundable bonds or development contributions to the KMC. These details are covered in the conditions of your development consent.

KMC's Construction Certificate and Subdivision Works Certificate Forms are available on [KMC's Website](#) or from KMC's Administration Building. KMC's Construction Certificate fees can be viewed in KMC's [Fees and Charges](#) or requests for fee quotes can be made through KMC's Customer Service Team.

The role of the Principal Certifying Authority (PCA)

In NSW, certifiers are accredited by the Building Professionals Board (BPB). The accreditation scheme sets the criteria for an accredited certifier and establishes a code of conduct and annual program for continuing professional development.

A PCA can either be an accredited KMC certifier or a private accredited certifier. The owner decides who the PCA is. If KMC is appointed the PCA, KMC becomes the building inspector and must carry out all the roles of the PCA.

A Principal Certifying Authority (PCA) must be appointed prior to the commencement of any building work in accordance with a complying development certificate or a development consent and construction certificate.

A PCA's role is to:

1. ensure general compliance with the development consent conditions and the construction certificate or the complying development certificate;
2. ensure compliance with the *Building Code of Australia*;
3. carry out all the required critical stage inspections associated with the building works
4. issue the occupation certificate when all works are completed and satisfied that the building is suitable for occupation or use.

When a private certifier is appointed as the PCA they take responsibility for the development site and are required to fulfill all the roles of the PCA. KMC is not the regulator of private certifiers. Any complaints about the conduct and actions of a private certifier must be directed to the BPB. More information on lodging a complaint about a private certifier can be found on the **Building Professionals Board's** website <http://bpb.nsw.gov.au/> or by calling on **02 8522 7800**.

Owner-builder

Owner-builder work is any work, including supervision and coordination of the construction, alterations, repairs or additions to a property:

- where the reasonable market cost (including labour and materials) exceeds \$10,000, and
- which relates to a single dwelling-house, dual occupancy* or a secondary dwelling that:
 - requires development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or
 - is a complying development within the meaning of that Act.

Note: an owner-builder permit will only be issued regarding a dual occupancy in cases of special circumstances.

An owner-builder permit is for people who have the skill or capacity to build their own house or supervise construction work. While an owner-builder permit is not a builder's licence, as an owner-builder, you are responsible for the building work as a fully licensed builder would be.

As an owner-builder, you are responsible for:

- overseeing and supervising all tradespeople
- ordering materials and managing the building site
- obtaining KMC and all necessary authority approvals
- ensuring that the financial, taxation and insurance requirements of the building work are met and fully comply with all laws
- being aware of your obligations under the *Workers Compensation Act 1987* and the *Work Health and Safety Act 2011* to provide a safe work environment that complies with SafeWork NSW requirements. Significant penalties may apply if you don't meet this obligation. Our [dealing with hazardous materials](#) page has more information on some possible risks, such as asbestos and lead
- ensuring any contractor engaged is appropriately licensed and insured to do the work contracted for

- warranting that the materials and work will be fit for the purpose and result in a dwelling that can be occupied.

To be eligible for an owner-builder permit, the development approval must be in respect of a single dwelling-house or a secondary dwelling. In special circumstances dual occupancies may be approved.

An owner-builder permit cannot be issued for:

- renovations to an existing apartment/unit/flat/townhouse within a strata complex
- property not for residential purposes.

To get an owner-builder permit, you must lodge an owner-builder permit application either:

- online using the NSW Department of Fair Trading's [online application form](#) and process
- in person at a Service NSW centre. To find out if you're eligible and to [download the relevant owner-builder forms](#), use the [Owner-builder self assessment tool](#) before going to the service centre.

Home warranty insurance

If the estimated development cost exceeds \$20,000 (including material supplied by the contractor) each licensed contractor (builder or tradesperson) who contracts directly with an owner-builder to do residential building work must provide insurance under the Home Building Compensation Fund (previously called Home Warranty Insurance) from an approved insurance provider.

You as the owner-builder should receive a copy of the certificate of insurance before:

- work starts
- you pay any money.

For details see our [Home Building Compensation Fund](#) web page.

During construction

Keeping a close eye on the work and being sure it is consistent with the development consent and any conditions attached is very important. Orders can be issued by KMC to stop work and fix any errors. This can cost time and money or even lead to penalties. The EP&A Act specifies enforcement measures that can be applied if a development is not built in accordance with its consent.

You should also keep your neighbours informed and report any complaints to the builder and the PCA.

Stage 6: Get your Occupation or Subdivision Certificate and celebrate

The Occupation Certificate authorises the occupation and use of a new building or building section. The Subdivision Certificate authorises the registration of a plan of subdivision under Part 23 of the [Conveyancing Act 1919](#).

The issue of the final OC is the last step in the formal DA and construction process (though there could be ongoing 'operational' conditions such as maintaining appropriate noise levels or landscape maintenance).

Glossary

List of abbreviations used

BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	<i>Biodiversity Conservation Regulation 2017</i>
BCA	Building Code of Australia
BPB	NSW Building Professionals Board
CC	Construction Certificate
CDC	Complying Development Certificate
DA	Development Application
DCP	Development Control Plan
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
KMC	Kiama Municipal Council
LEP	Local Environmental Plan
LGA	Local Government Area
OC	Occupation Certificate
OEH	NSW Office of Environment & Heritage
PCA	Principal Certifying Authority
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy

Accredited Certifier means the holder of a certificate of accreditation as an accredited certifier under the Building Professionals Act 2005. Also referred to as a 'Certifying Authority'.

Appeal is the right of a person to challenge a decision in court, for example, a decision by a council to refuse a DA, or impose a particular condition of consent.

Building Code of Australia (BCA) means the document of that name published on behalf of the Australian Building Codes Board in October 1996, together with:

- a. Such amendments made by the Board, and
- b. Such variations approved by the Board in relation to NSW, as are prescribed by the regulations.

Building work means any physical activity involved in the erection of a building.

Complying Development is routine development that an EPI provides can be approved by meeting specified predetermined development standards.

Complying Development Certificate (CDC) is a certificate that states that particular proposed development is complying development and (if carried out as specified in the certificate) will comply with all development standards applicable to the development and with other requirements prescribed by the regulations concerning the issue of a complying development certificate and, in the case of development involving the erection of a building, that identifies the classification of the building in accordance with the Building Code of Australia.

Consent Authority, in relation to a DA (or an application for a Complying Development Certificate), means:

- a. The council having the function to determine the application, or
- b. If a provision of the EP&A Act, the regulations or an EPI specifies a Minister, the Greater Sydney Commission, the Planning Assessment Commission, a joint regional planning panel, local planning panel, or public authority (other than a council) as having the function to determine the application – that Minister or the Greater Sydney Commission, Planning Assessment Commission, panel or authority, as the case requires.

Construction Certificate (CC) is a certificate to the effect that work completed in accordance with specified plans and specifications will comply with the requirements of the Act and Regulations.

Development application (DA) means an application for consent under Part 4 of the EP&A Act to carry out development. It is usually made to the local council. It consists of standard forms, detailed plan drawings and a number of detailed documents (called 'submission requirements').

Development consent means consent under Part 4 of the EP&A Act to carry out development and includes, unless expressly excluded, a Complying Development Certificate.

Development Control Plan (DCP) is a detailed guideline that illustrates the controls that apply to a particular type of development or in a particular area and is made under the EP&A Act.

Dwelling means a room or suite of rooms occupied or used, or constructed or adapted so as to be capable of being occupied or used as a separate domicile.

Environmental Planning Instruments (EPIs) means an LEP or SEPP made under Part 3 of the EP&A Act. They contain the controls that apply in relation to the development of an area/site.

Exempt Development is classified in an EPI as development that may be carried out without the need for development consent because it will have minimal environmental impact, so long as any requirements of the EPI are satisfied.

Local Environmental Plan (LEP) is a form of EPI made under the EP&A Act. It is the principal legal document for controlling development at the council level. LEPs contain zoning provisions that establish permissibility of uses and specify standards that regulate development. They are prepared by councils and approved by the Minister or, in the Greater Sydney Region, the Greater Sydney Commission or their delegates.

Occupation Certificate (OC), issued by the Principal Certifying Authority, is a certificate that authorises the occupation and use of a new building, or a change of building use for an existing building. It is a post-construction check on whether necessary approvals and certificates are in place for the development and the building is suitable for occupation or use in accordance with its BCA classification.

Principal development standards are those standards that are so important that they are included in the LEP e.g. building height, floor space ratio.

Public Domain refers to public land adjoining or in the vicinity of a site. For instance, streets, footpaths and public reserves.

Secondary dwelling means a self-contained dwelling that:

- i. Is established in conjunction with another dwelling (the principal dwelling), and
- ii. Is on the same lot of land as the principal dwelling, and
- iii. Is located within, or is attached to, or is separate from, the principal dwelling.

Site Analysis is a bird's eye view plan showing where the sun is, and identifying trees and other key features on-site and adjoining sites (including the street).

Solar access means the availability of sunshine to a property.

State Environmental Planning Policies (SEPPs) are a form of EPI made under the EP&A Act by the Governor to make provision with respect to any matter that, in the opinion of the Minister, is of State or regional environmental planning significance, or is of environmental planning significance to a district in the Greater Sydney Region.

Statement of Environmental Effects (SEE) is a formal report prepared for the applicant in support of their DA, addressing the council controls and the merits of the proposal.

Streetscape refers to the view from the public domain, usually the street (and possibly a laneway or public reserve).

Subdivision Certificate is a certificate that authorises the registration of a plan of subdivision under Part 23 of the [Conveyancing Act 1919](#).

Subdivision Works Certificate (CDC) is a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the regulations.

Zoning is the system of categorising land uses as prohibited, requiring consent or not requiring consent within particular areas. Zones (such as Residential or Commercial) are generally shown in map form and their objects and permissible uses are set out in EPIs.

Appendix 1 - Building Construction Cost Guide

Please refer to the [Environmental Planning and Assessment Regulation 2021 - NSW Legislation](#)

Appendix 2 – Cost Summary Report Template

The genuine cost of the development proposed in a development application should include costs based on industry recognised prices, including cost for materials and labour for construction and/or demolition and GST. If the estimate is understated, the figure will need to be adjusted. Additional application fees may then be incurred.

Cost summary table (for development under \$3 million)

This model cost table can be adapted and used by consent authorities.

Element	Cost (excluding GST)
Demolition, excavation and site preparation Includes clearing vegetation, demolition, excavation and remediation, as well as disposal of any material.	\$
Substructure, columns, external walls and upper floors Substructure is the structurally sound and watertight base upon which to build. Substructure includes all work up to but excluding the lowest floor finish. Columns include internal and external columns from tops to bases, column casings and all protective non-decorative coatings. External walls include structural walls, basement walls, glazed screen walls, any balcony walls and balustrades. Upper floors are the floor structures above the lowest level.	\$
Staircases Structural connections between two or more floor levels or to roof, plant rooms and motor rooms together with associated finishes.	\$
Roof The structurally sound and watertight covering over the building.	\$
Windows, internal walls, doors and screens	\$
Surface finishes Finishes and decoration applied to internal and external surfaces such as walls, floors and ceilings (e.g., painting, cladding, rendering, carpeting, etc).	\$
Fitments Includes built-up fitments and fixed items (e.g., joinery, benches, plaques, mirrors, etc). Loose furniture and finishes are not included.	\$
Special equipment Special equipment is fixed equipment that is necessary to the use for which consent is sought.	\$
Building services Internal and external services necessary for the functioning of the building and property (e.g., stormwater, gas supply, electrical systems, mechanical ventilation, lifts, etc).	\$
External works Works external to the building other than external building services (e.g., soft landscaping, footpaths, decks, retaining walls, etc).	\$
Professional fees Professional service fees associated with the design and construction of a development (e.g., architect, project manager, town planning consultant, etc).	\$
Estimated development cost (The sum of the above cost elements, exclusive of GST*)	\$
GST	\$
Estimated development cost plus GST	\$

Appendix 3 – Naming Convention

This Naming Convention has been prepared to ensure you name and save the separate parts of KMC’s Forms and Associated Documents in a manner that will protect your privacy and expedite the lodgement of your application.

KMC requires all information to be submitted in an electronic format via email or through the NSW Planning Portal. All documents are to be saved as separate PDF files no bigger than 20MB each. When documents exceed this size they are to be saved in parts and labelled accordingly. KMC requires all documents to be named and saved in accordance with the following naming convention:

Document title – Address of Development – Applicant Name

Example: Development Application (this is not a definitive list, refer to relevant checklist):

- Development Application Checklist – 123 Fake Street Kiama – Joe Blogg
- Development Application Form – Part A – 123 Fake Street Kiama – Joe Blogg
- Development Application Form – Part B – 123 Fake Street Kiama – Joe Blogg
- Statement of Environmental Effects – 123 Fake Street Kiama – Joe Blogg
- Architectural Plans – 123 Fake Street Kiama – Joe Blogg
- Concept Stormwater Management Plans – 123 Fake Street Kiama – Joe Blogg
- Driveway Long Section Plans – 123 Fake Street Kiama – Joe Blogg
- Landscape Plans – 123 Fake Street Kiama – Joe Blogg
- Neighbour Notification Plans – 123 Fake Street Kiama – Joe Blogg
- Cost Report – 123 Fake Street Kiama – Joe Blogg
- Waste Minimisation & Management Plan – 123 Fake Street Kiama – Joe Blogg
- On-Site Disposal of Effluent Report – 123 Fake Street Kiama – Joe Blogg
- Bushfire Assessment Report – 123 Fake Street Kiama – Joe Blogg