

## Sheet 01: General Building Application Information

To detail factors which determine the requirement for an application and identify which permits are required for the most common building projects. This information is to be read in conjunction with other Information Sheets available from Council regarding siting requirements for Class 1 and Class 10 buildings and on documentation required for applications for specific types of building projects.

### Information Source / Legislation

#### **Building Act 1975**

**Building Regulations 2006** – Schedules 1 and 2

**Queensland Development Code** – Mandatory Parts 1.1 and 1.2 (for siting requirements)

**Planning Act 2016** – categorises development and types of assessment and states the processes for making, receiving, assessing and deciding applications.

**Development Assessment Rules** – goes into details of the process for making, receiving, assessing and deciding applications (refer s68 of the *Planning Act 2016*)

**Planning Regulations 2017**

### Factors Requiring or Affecting Building Applications

#### 1. The Planning Scheme

- a. Building works must be compliant with Council's [Planning Scheme](#), with any relevant approvals required against the Planning Scheme obtained prior to the issuing of an approval for building works. Where the provisions of the Scheme differ from the building regulation, then the provisions of the Scheme override the building regulation.
- b. A Planning Scheme generally comprises zone codes, use codes, development codes and special feature codes. The zone, use and development codes govern the type and form of development which can occur on a property. The special feature codes identifies features which may impact on if/how development may occur. Typically, these are overlay codes e.g. Bushfire, Storm Tide areas, Steep land.
- c. Before a building application is submitted, the proposed development should be assessed against the planning scheme to determine if the work complies with the planning scheme. Council provides a service to discuss proposed development via the [Duty Planner](#).

#### 2. Boundary Setback Requirements for Buildings

- a. A planning scheme may govern the boundary setback requirements for proposed buildings. If the development cannot comply with the planning scheme, then an application for development approval is required (refer to 1. above).
- b. The *Queensland Development Code*, Mandatory Parts 1.1 and 1.2, governs the siting requirements of Class 1 (dwellings) and Class 10 buildings/structures (non-habitable ancillary buildings). Where a Class 1 or Class 10 building /structure cannot comply with the Code, then an application for concurrence response is required to be made at the time of lodging the building application. Council provides the service to discuss the proposed development with a Duty Planner for such applications. A separate information sheet is available on this subject or refer to the legislation (*Development Assessment Rules* and *Planning Act 2016*).
- c. Where there is a difference regarding setbacks between the Planning Scheme and the *Queensland Development Code*, the planning scheme will override the Code.

#### 3. Design Standard of the Building Work – Cyclonic or Non-Cyclonic

- a. Under the National Construction Code of Australia and AS4055, areas of Australia are categorised according to the *probability* of being subject to cyclonic conditions (ie non-cyclonic or cyclonic).
- b. The Livingstone Shire Council is recognised under legislation to be in a cyclone prone zone. Building regulation requirements are different to 'non-cyclonic zones' in that a permit is required for certain buildings where it would not have been required in a non-cyclonic zone (refer to Schedule 2 of Building Regulations 2006).
- c. The design of building work must comply with the requirements of the calculated wind rating of the property. For confirmation of the wind category for a property, contact your nominated Registered Practising Engineer of Queensland or the authority nominated to assess the application.

#### 4. Building Over or Near Relevant Infrastructure (Sewer/Water/Stormwater Main)

- a. On the 1st of November 2013, new laws were implemented that would affect proposed building works that would commence over or near sewers, water mains, stormwater drains or combined sanitary drains (*relevant infrastructure*).
- b. An information sheet by the state government is available on this website:  
<http://www.hpw.qld.gov.au/SiteCollectionDocuments/BOIsGeneralInformationQDCMP1.4Factsheet.pdf>
- c. Enquiries to confirm if an application is required can be referred to Council's Department of Infrastructure of the Duty Planner.

#### 5. Easements / Covenants

Under section 65 of the *Building Act 1975*, building work cannot occur over an easement or within a statutory covenant unless the registered holder of the easement or covenant has given consent. Easements and covenants are detailed with registered plans which can be viewed from the Registered Titles Office.

## When is a Building Permit Required

### Determining if A Building Permit Is Required

#### 1. The Planning Scheme:

A Planning Scheme may determine the type of development that may occur on a property and if planning approval is required before a building application can be made. Under s44 of the *Planning Act 2016*, development is categorised as either:

- a) prohibited – development application may not be made
- b) assessable – development approval is required or
- c) accepted development – a development approval is not required.

For confirmation if a proposed development requires planning approval please arrange for an appointment with Council's Duty Planner.

#### 2. Building Regulations:

The table at the end of this document details types of building projects and confirms if an application for a building permit is required as per Schedule 1 and 2 of the Building Regulations 2006.

## Preparing a Building Application

- **Documents Required:** Council has a number of information sheets available on its website providing specific information relating to different types of building projects, for example: dwellings, garage/carports, etc.
- **How is an Application Processed?** The process for assessing an application is legislated under the *Planning Act 2016* and *Development Assessment Rules*.

## Enquiries

Enquiries may be referred to Council's Building Section. Contact details are detailed on the first page

## Website Details to Source Information / Legislation / Forms

Queensland Development Code: <http://www.hpw.qld.gov.au>  
Building Regulations 2006: <https://www.legislation.qld.gov.au>  
Building Act 1975: <https://www.legislation.qld.gov.au>  
Planning Act 2016: See State Government website

Development Assessment Rules As for Planning Act 2016 above  
Council's Planning Scheme Council website: [www.livingstone.qld.gov.au](http://www.livingstone.qld.gov.au)

Council Policy / Information Sheets Council website as above

## What Types of Building Works Requires a Permit

The following table lists common types of building work. Queries should be directed to your nominated building certifier.

<b>Type of Work</b>	<b>Guideline / Comment</b>
Aerial / Antenna	No permit is required if either of the following: <ul style="list-style-type: none"> <li>• If device is attached to a building, to be no more than 3.5m above the building/structure, <b>or</b></li> <li>• If the device is free standing, to be no more than 10m above the natural ground surface.</li> </ul>
Air conditioner – installation, repair, maintenance or alteration	No permit is required if: <ul style="list-style-type: none"> <li>• The air conditioner is not an integral part of the building (is not part of the fire safety system or mechanical ventilation system for the building)</li> </ul>
Alterations, repairs, maintenance to a building (non-structural work and does not affect the fire safety system)	No permit is required if the work is for other than a pool fence, and if it: <ol style="list-style-type: none"> <li>a) does not change the building/structure floor area or height; AND</li> <li>b) does not affect a structural component of the building; AND</li> <li>c) does not affect the fire safety system of the building.</li> </ol>
Alterations, repairs, maintenance to a building (minor structural work)	No permit is required if the work is for other than a pool fence or a unit, and if: <ol style="list-style-type: none"> <li>a) it does not change the building or structures floor area or height; AND</li> <li>b) the work does not affect more than 20 per cent of the building's structural components.</li> </ol> If the work refers to a unit – contact your certifier for confirmation.
Alterations, repairs, maintenance to a building (non-structural work and <b>affects</b> the fire safety system)	No permit is required if the work is for other than a pool fence, and if it: <ol style="list-style-type: none"> <li>a) does not change the building/structure floor area or height; AND</li> <li>b) only affects a minor component (no more than 20 per cent) of the fire safety system (ie does not compromise the safety of the occupants)</li> </ol>
Bali Hut type structure	(see Carport, etc)
Carport, Patio, Open Shade Shelter	Permit is required.
Changing a Classification all or part thereof an existing building	Permit is required. Note: for home business, the size of the office area may determine if a permit is required. Contact your certifier for further information.
Commercial / industrial type building (new, alterations, additions)	Permit is required.
Converting a garage portion of a dwelling to a habitable area	Permit is required. To comply with the building codes for light/ air ventilation/ floor height above ground / insulation, etc
Cubby House – defined as a small roofed, non-serviced structure for non-habitable use by children	No permit is required if: <ol style="list-style-type: none"> <li>a) plan area, including overhang, is no more than 10 square metres AND</li> <li>b) is no higher than 2.4 metres, AND</li> <li>c) a mean average height no more than 2.1m (refer to schedule to calculate this), AND</li> <li>d) any side is no longer than 5 metres.</li> </ol> Note – the roof stormwater is not to cause a nuisance to adjoining properties.
Deck	No permit is required if meets following criteria: <ol style="list-style-type: none"> <li>a) No higher than 1m above the natural ground surface; and</li> <li>b) Not more than 10 square metres in area; and</li> <li>c) Any side is not more than 5 metres in length.</li> </ol>
Dwelling	Permit is required for: A new dwelling, extensions or additions/alterations to an existing dwelling, removing a dwelling from a site, demolition of a dwelling, or relocating / moving a dwelling to a site
Excavation or Filling	No permit is required if: <ol style="list-style-type: none"> <li>a) cut/fill does not exceed 1 metre;</li> <li>b) the cut embankment has a gradient to suit the soil type (refer to Schedule)</li> <li>c) any fill embankment is no steeper than 4.0 horizontal to 1.0 vertical</li> <li>d) any compacted fill embankment has a gradient to suit the soil type (refer to Schedule)</li> </ol>

<b>Type of Work</b>	<b>Guideline / Comment</b>
Fence (not for a pool)	The permitted height of a boundary fence may vary if the property is a corner allotment (refer to the <i>Queensland Development Code</i> ). If compliant with the <i>Queensland Development Code</i> then no permit is required. If not compliant, then an application for variation to the <i>Queensland Development Code</i> is required and, if approved, then a development permit is required to carry out the building work.
Fence (for NEW pool)	Permit is required for a new pool in which details of the construction, including gate, must be included with the pool application.
Fence (for an existing approved pool) – minor repairs	Permit is required if: a) Fence is related to a shared pools OR b) The fence is higher than 2 metres above the natural ground surface: No permit is required if: a) The work is related to a non-shared pool; and b) If work involves less than 5m length of the pool fence, or six (6) posts.
Filling or Excavation	See Excavation
Flagpole/ Mast/ Tower (non load bearing)	See Aerial. Property must be outside of areas covered by Obstacle Limitation Surfaces Standards of the Civil Aviation Safety Authority.
Heating Devices	No permit required if the device is not an integral part of, or abuts, the building. Work includes installation, repair, maintenance or alteration of a heating device.
Maintenance	See Alterations
Miscellaneous structure Class 10	No permit is required if the structure is no higher than 3m above its natural ground surface. If it cannot comply then it is assessable. (eg playground and sporting equipment, garden furniture, temporary market stalls, minor plant and equipment covers that are no more than 3m above their natural ground surface)
Patio	See under Carport
Pergola	Defined as a non-weather proof structure. See under Carport
Playground equipment	See under Miscellaneous
Rainwater Tank – No stand	No permit is required if compliant with siting requirements of the Queensland Development Code MP1.1 or MP1.2
Rainwater Tank – On a Stand	Permit is required. Engineer certification of the stand is required. Siting to comply with the Queensland Development Code MP1.1 or MP1.2
Repairs	See under Alterations
Restumping	See under Alterations – Minor Structural Work
Retaining Wall Less Than One Metre In Height	No permit is required if: <ul style="list-style-type: none"> <li>There is no surcharge loading over the zone of influence for the wall; AND</li> <li>Total height of the wall and the cut or fill is no more than 1m above the wall's natural ground surface, AND</li> <li>The wall is no closer than 1.5m to a building or another retaining wall.</li> </ul>
Satellite Dish	See Aerial
Shed – not for agricultural / horticultural farm purposes	Permit is required regardless of the size. This is assessable building work because the Region is in a cyclonic area (refer to Schedule 1, s13)
Shed – on land used for farm or horticultural purposes only	No permit is required if the building is a Class 10 building and the structure is located more than 200 metres from all the boundaries of the property NOTE: if the building is considered to be a Class 7/8 building then a permit is required..
Shipping Containers – as a temporary storage structure	No permit is required but a letter seeking approval is required : Letter should be submitted advising Council of intention to avoid potential compliance investigations.
Shipping Container – as a permanent Class 10 structure	Permit is required. Application to include engineer certification for tie-down.

<b>Type of Work</b>	<b>Guideline / Comment</b>
Signs	No permit is required if it is: - freestanding, AND - no higher than two metres AND - no wider than 1.2 metres
Sunhoods	No permit required if the area of the sunhood is no greater than 2 square metres.
Swimming Pool / Spa with or without lockable lid	Permit is required. Application must include construction details of the pool safety fence and gate.
Temporary Site Office on a building site (used solely as a Class 5 type building)	No permit is required if the temporary building/structure is a temporary site office, gantry or scaffolding on a building site.
Temporary Home On Site Whilst Constructing The Dwelling	Permit is required. This is an application required in accordance with the Council Local Law (see separate information sheet). This refers to making an application to reside in temporary residence on a site whilst the dwelling is under construction. Refer to a separate Information Sheet on this matter.
Temporary Pool Fence	Permit is required. Reference s24(6) <i>Building Regulations 2006</i>
Tent, Up to 100 sqm area	No permit is required.

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