

Explanatory Guidelines

Deemed Provisions Clause 61A

Advice on planning approval exemptions for Single Houses (Deemed-to-Comply check)

These guidelines provide information and guidance on the implementation of clause 61A of the Deemed Provisions in *Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015*. They are intended for use by both local government and applicants.

What is clause 61A and what does it do?

Certain types of development are exempt from requiring development approval under clause 61 of the Deemed Provisions. These exemptions include the construction of a new single house, or extensions and/or renovations to an existing single house that meet the 'deemed-to-comply' criteria of Volume 1 of the Residential Design Codes (R-Codes) or any local planning policy that amends or replaces these criteria. More information on the R-Codes can be found at www.dplh.wa.gov.au/rcodes.

Clause 61A allows people (i.e. applicants) who are intending to either build a new single house or extend and/or renovate an existing single house to seek advice from their local government as to whether development approval is required for what they are proposing. This is sometimes referred to as a 'deemed-to-comply' check. The intent of this check is to provide applicants with confidence that their proposal can proceed straight to a building permit.

This is a voluntary process that only applies to single houses and extensions or renovations to existing single houses. It does not apply to the other types of exemptions that are available under clause 61.

Applying for advice under clause 61A

Applications for advice under clause 61A must be made to the relevant local government using the correct form found on the [LPS Regulations](#) website. The cost of making this application is a maximum of \$295 and must be paid at the time of lodgement.

Clause 61A also requires relevant documentation and information to be provided as part of the application. The required documentation is listed on the application form and includes:

- A site plan showing lot dimensions, all existing and proposed structures, existing and proposed ground levels, any structures proposed to be removed, existing and proposed pedestrian and vehicle access, car parking spaces including layout and dimensions, any proposed open space and landscaping.

- Floor plans of buildings proposed to be erected or altered, and any buildings proposed to be retained, complete with setbacks to all lot boundaries.
- Elevations of buildings proposed to be erected or altered, and any buildings proposed to be retained, complete with existing and proposed ground levels and wall and roof height dimensions taken from natural ground level.

Should applicants wish to provide a self-assessment with their application they may do so. This is not a mandatory requirement but it may assist the local government in processing the application.

Not all the information and documentation listed will be required for every application. The local government may determine that some of the information is not required based on the nature of what is being proposed. Applicants should contact their local government to discuss and determine what information will be required for their application, including any relevant local planning policies that will need to be considered.

The local government will check the application form and accompanying documentation to make sure all the required information is provided. You may be asked to provide more information before the application is accepted and lodged. It is important that an application is made using the correct form

and accompanied by all the required documentation and information so that it can be accepted and processed by the local government. Applications that do not include all this information cannot be accepted.

Local government consideration and provision of advice

Once accepted and lodged, the local government will review the application and information provided to check whether what is being proposed meets all the relevant deemed-to-comply criteria of the R-Codes Volume 1 and, where relevant, any local planning policy.

It is important to note that this is not a de-facto development application process, but a simple check of the proposal against the deemed-to-comply criteria of the R-Codes and any relevant local planning policy. The local government is not bound by any statutory development application processes, such as advertising, formal requests for further information or any other communication and negotiation that occurs as part of the development application process.

Advice of the outcome will be provided within 14 days of the application being accepted and lodged. The advice is to be provided on the form found on the [LPS Regulations](#) website.

The advice will state either that:

- the proposal is exempt from development approval, or
- the proposal is not exempt from development approval. This will include the reasons why, by briefly outlining where and how the proposal does not meet the deemed-to-comply criteria of the R-Codes and any relevant local planning policy.

What happens next?

If the advice states that your proposal is exempt, you may lodge an application for a building permit. If your proposal is not exempt, you have a number of options available to you:

- you may apply for development approval, or
- you may amend your plans to address the areas of non-compliance and submit another application for advice under clause 61A, or
- you may amend your plans to address the areas of non-compliance and apply for a building permit. Please note that if you choose this option, an area of non-compliance that was not addressed fully may be identified through the building permit process and you may be requested to apply for development approval.

The Department of Planning, Lands and Heritage acknowledges the traditional owners and custodians of this land. We pay our respect to Elders past and present, their descendants who are with us today, and those who will follow in their footsteps.

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