



FACT SHEET – DWELLING ENTITLEMENTS

Buying a block of land to build a house on is a very big investment. In rural areas, some properties are able to have dwelling houses built on them and others cannot. This Fact Sheet explains how you can go about seeking guidance from Council on whether or not a dwelling can be built on a property.

There are a wide range of legislative requirements that aim to guide development within NSW in order to ensure that development is both appropriate and desirable. One of the ways in which councils do this is through a Local Environmental Plan, commonly known as the 'LEP'. The LEP applies across the whole of the council area and is a legal document. In summary, the LEP spells out the planning rules and regulations for a range of development in the shire. One such type of development is residential dwellings.

The location and permissibility of dwelling houses in the shire under the LEP is dependent on a broad range of factors. These factors include, for example, the land zoning, size of the property, the historical usage and ownership pattern of the land and, whether or not the land is affected by any constraints such as bushfire or flooding. For this reason, many banks, lending authorities, solicitors and real estate agents seek written confirmation from Council that a house can be built on particular parcels of land. This is sometimes known as "confirmation of a dwelling entitlement". This terminology can be a little misleading as under the current NSW planning system, the only way that legal confirmation of the erection of a dwelling can be obtained is through lodgement and subsequent approval of a Development Application (DA) by council or by obtaining a Complying Development Certificate (CDC) from council, or, an accredited Private Building Certifier.

Council recognises, however, that getting a DA or CDC approved prior to purchase is not always achievable or realistic: therefore, you can make written application to council for a planning opinion (statutory review) on the likely permissibility of a dwelling in accordance with the current LEP requirements. A Dwelling Entitlement Application form can be downloaded from Council's website – www.lachlan.nsw.gov.au.

Determining whether or not a dwelling is permissible on land can be a complex process as many variables exist and no 'one size' fits all. Consequently, Council staff are unable to provide verbal advice on dwelling permissibility over the counter or by telephone. Given the high level of research and time that is required, Council seeks to recover part of the costs through imposition of a search fee. This fee is \$233 under Council's adopted Fees and Charges Schedule. Upon receipt of your form or written request, Council will complete a review and provide written guidance and associated advice to assist in your decision making process. The normal turnaround time for requests is fourteen (14) days, depending on the complexity of the request.

