

Developing: The DA process



Jo Chivers

The DA process is an intimidating experience, particularly for first-time developers. But, as Jo Chivers from Property Bloom explains, fear of the unknown can be turned around simply by getting to know your local council

One of the most important steps in the development process is understanding the local town planning in the area you're looking to develop in.

The first place to start is at the local council. Your council is the approval body for all development within the Local Government Area (LGA), and you must gain council's approval before you proceed with a development. This process ensures that your proposal meets the community's standards for the area in which you're building, and for the type of building you propose.

Start by checking the council website and immerse yourself in the Local Environmental Plan (LEP) and the various Development Control Plans (DCPs). A DCP is a document that contains planning controls that are specific to a particular area/subject within the LGA.

It provides detailed information on the scope of development, and guidance to those wishing to design a development and submit a development application (DA) regarding things such as setbacks, building height, open space, waste management and energy efficiency.

The designer of your development must be aware of the relevant provisions of the applicable DCPs.

A 149 Certificate will allow you to see which DCPs specifically apply to your property, and there will be a specific DCP for dual occupancy and unit development.

These documents provide the details you'll need to understand regarding what's permissible in your local area. But be prepared as this isn't light reading, and can be confusing and complex for first-time developers.

Also, while you're on the council website, download a DA form and read through the various steps. Councils will also offer guidelines designed to assist you in the preparation and submission of a DA.

Real life

Property development the easy way

Joanne and Scott have recently completed a three-villa development, and they're now enjoying the fruits of a 6.1% gross rental yield.

Scott, who is a stockbroker in Sydney, says the couple had a healthy equities portfolio when they decided they wanted to add property to their investment portfolio.

After a meeting with Jo Chivers from Property Bloom, the couple realised that for a cost of around \$560,000 – the price of a two-bedroom unit in Sydney – they could develop a property in the booming Hunter region, and end up boosting their portfolio with three properties instead of just one.

"We were offered a DA-approved block of land in a strong, established suburb, and Property Bloom negotiated a discounted purchase price and longer settlement term, so the Construction Certificate plans could be completed," Scott explains. "By the time we settled on the land, we were ready to start building."

Their developer margin, or the amount of equity created through the development process, was just over \$97,000, after all costs and the project management fee.

"This gave us a nice financial buffer that we can use to draw out if we want to buy more property or keep as a safeguard," Joanne says.

Property Bloom coordinated the entire development process, to the point where Joanne and Scott didn't even physically view the development until it was completed.

"We felt confident that it was being managed professionally by Jo. She kept us updated by phone and e-mail with photos of every building stage so we could follow the development remotely," Joanne says.

"She even helped find us tenants; the units were fully tenanted by the time the Occupation Certificates were issued. We're earning more than 6% gross yield on the villas and that's a great return."



Project costs

Purchase price for DA-approved 736.26m ² land	\$175,000
Setup costs	\$8,695
Cost to construct three units	\$382,566
Strata subdivision	\$3,606
Total costs	\$569,867

Final valuation

Villa 1:.....	\$245,000
Villa 2:.....	\$230,000
Villa 3:.....	\$230,000
Total:.....	\$705,000

Project result

The project ended with a net equity result of \$97,296, after the project management fee was paid.

Rental returns

The three villas have been leased for:
\$235 per week for villa 1
\$220 per week for villas 2 and 3

Total rental return

\$675 per week, or \$35,100 pa
Gross yield: 6.15%

Depreciation

Diminishing value total depreciation – plant and equipment
Division 43 was \$12, 610 for 2006/07 and \$17,053 in 2007/08

Learn the lingo

The following information is specific for developments in NSW. If you're building in another state, it's important that you obtain the relevant information.

DA: A DA is an application for council to consider your proposal for development.

BASIX report: In NSW, along with your DA you'll also need to submit a Building Sustainability Index (BASIX) report. A BASIX will ensure that each new dwelling design meets the NSW government's targets of a reduction in water consumption and greenhouse gas emissions. All applications for new dwellings require a BASIX Certificate to be lodged with the DA.

Statement of Environmental Effects (SoEE): This is a statement generally in the form of a letter or report. The SoEE describes the proposed development and details how the proposal will affect various aspects of the environment. This needs to be lodged with the DA. You can have your builder or a planning consultant complete this.

Developer charges: After you've received a development consent and before you receive the Construction Certificate, you must pay developer charges to council and the local water service provider.

The council fee is a 'Sec 94 contribution'. Sec 94 of the *Environmental Planning and Assessment Act 1979 (NSW)* refers to developer contributions and enables councils to require a contribution from developers towards the provision, extension or augmentation of public amenities and services that will, or are likely, to be required as a consequence of development in the area, or that have been provided in anticipation of, or to facilitate, such development.

You should also consult the local water and sewerage service provider, as your plans will need to be stamped by the service provider prior to acceptance by council.

The service provider will issue a charge – in Sydney it's known as the 'Sec 73 developer charge', and in the Hunter region it's known as the 'Sec 50 developer charge'. This has to be paid before council will issue your Construction Certificate.

The amount payable is based on the individual development. The service provider will facilitate the planning and provision of water services for the water and wastewater infrastructure required for the development.

149 Certificate: A 149 Certificate is a planning certificate issued under Sec 149 of the *Environmental Planning and Assessment Act 1979*. Planning certificates give information on the development potential of a parcel of land, including the planning restrictions that apply to the land on the date the certificate is issued.

It's important to understand that if a planning certificate doesn't identify any specific flood planning controls or policies that doesn't mean that the subject property is flood free.

Council may have flooding data and this is available upon application, so this is a very important point – one that can make or break your development. You shouldn't rely solely on the 149 Certificate. Dig deeper with your research to ensure you're purchasing land that can be developed.

Planning certificates are attached to contracts for the sale of land, and copies can be obtained from your conveyancer or solicitor or council directly.

88B Instrument: The 88B Instrument is a document under Sec 88B of the *Conveyancing Act 1919 (NSW)*. The 88B Instrument sets out the terms of

Certificate and Occupation Certificates, once the development is complete. Often this option can save you valuable time, depending on how efficient the local council is.

When you receive development consent, there'll be a list of conditions that you must comply with before you can apply for the Construction Certificate.

A Construction Certificate is issued to verify that the proposed works comply with the development consent, the appropriate Australian Standards, council's policies and the Building Code of Australia (BCA).

Occupation Certificate: Once you've completed the development you must then apply for the Occupation Certificate.

You can have council or a private certifier do this final step. The inspection will ensure that you've completed the development and met all of the standards required and specified in the Construction Certificate.

Your development team

I've built up a great team over the years. When I find an interesting property the first person I talk to is my

Check the aspect of the land, as most councils like to see north-facing living areas

any easements, restrictions or positive covenants in relation to land use.

Should your property be affected by an easement, right of carriageway or covenant, council will consider the requirements specified within the 88B Instrument as part of the assessment of your application.

To minimise any delays in this regard, it's important that you're aware of any restrictions that may affect your lot.

Details of an 88B Instrument affecting your property can be determined by means of a title search by your solicitor or conveyancer when purchasing the property. The title search will identify which deposited plan will have details of any 88B Instrument. Deposited plans are registered with NSW Land and Property Information.

Construction Certificate: You'll require a Construction Certificate before you can start building. You can apply for council to process the development consent and Construction Certificate applications at the same time, or you can use a private certifier to process the Construction

surveyor. He knows the specific area that I work in, and has more than likely conducted a past survey on the property, even if there's no survey being offered in the contract.

If he hasn't surveyed it, he can still tell me if there would be any issues likely to hinder development. He may know of any easements affecting the property and can tell me if it's in a flood- or bushfire-prone area.

Your ultimate development team should consist of several professionals: **Property specialist solicitor** – never scrimp on your legal advice

Property accountant – who can set up the right purchasing structures and effectively manage your tax

Financier – to find the best lenders for construction lending

Surveyor – for local land knowledge

Builder – who can provide an accurate building estimate, and build to the standard you wish to achieve within the timeframe

Planning consultant – for extra advice, if you need planning support

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Development manager – who can offer expertise in handling the entire development process for you

Once you've set up your team and you have a good understanding of development guidelines, you can start searching for the right property to develop.

Planning

Check the aspect of the land, as most councils like to see north-facing living areas. They also prefer north-facing courtyards. The slope of the block is also important. A slight slope to the street is preferable as it's easier to drain to the street. A backward sloping block may mean you'll need to negotiate drainage easements with a neighbour.

Also check whether the block has electricity connection. This seems fairly straightforward, but if you're subdividing a block you'll need to have an electrical connection to the newly created lot. If the energy supplier needs to install a new powerpole, this can add thousands to your development costs.

You can check the sewerage connection by checking the sewerage diagram in the contract and talking to the local water service provider. Again, if you need to extend sewer lines, this will also add to your development costs.

There's a lot of value in getting to know your local council. Building personal relationships with key staff members could really assist you in a smooth DA process. Most councils will give you easy access to their town planners, and you can phone or have an over-the-counter meeting with the duty planner and ask all the questions you like. So don't be shy.

Once you've found a property, you should ask whether the land is in a flood zone – don't just check the 149 Planning Certificate in the contract, as it can be out of date or might not provide you with all the information you need.

Often, councils are working on new flood studies and you may find that by the time you lodge a DA, the property's flood zone may have changed and it will now be affected by flooding, and hence your DA may be rejected.

There are flood and/or drainage managers in council, so you can contact them for further information on a specific area.

Often councils will have several town planners on staff, but don't assume that they all work in the same way. What one planner may request another may not – it comes down to how they perceive your development meets the guidelines of the DCP.

The next step is to have a rough concept drawing designed of the proposed development. Provide your builder with a copy of the survey, and he may be able to drop his design onto the survey, or have a draftsman or architect do this for you.

Use the concept drawing to present to council in an over-the-counter meeting with the duty planner, who will be able to indicate any areas of concern or point out things that you may not have thought of.

Waiting period

After you've analysed the numbers, it's time to take the plunge and purchase the property. You can use a number of strategies to secure the property.

I always negotiate a long settlement of three to six months, with permission to lodge a DA during the settlement period. This gives me time to get my units designed, and the DA prepared and lodged. I aim to have the DA approved by the time we settle, as this minimises holding costs.

Once the DA is lodged you'll receive an acknowledgement from council and be given the name of the planner who will be handling the application. Now is the time to set up an open line of communication with the planner, so give them a call and introduce yourself.

You should manage the DA process because, in developing, time is money. The Land Act requires council to make a decision on an application within 30 working days from the date the DA is formally lodged if exempt from public notification, or 45 working days if the DA has been publicly notified and objections received. If this time is exceeded, the authority still has the ability to determine the application for a period of up to six months from when the DA was lodged – this may vary from state to state.

If you're experiencing delays, give them a call or e-mail them to find out what is holding things up. If, during the assessment of the application, additional information is required, you'll be

notified in writing. The prescribed period for determining your application (30 or 45 days) will be extended by the number of days it takes for you to submit the requested information. So you should therefore ensure that your architect or designer gets amendments back to council as soon as possible. Not everyone knows about this timeframe, so if you haven't received your DA within 45 days and there has been no additional information requested by council, you can lodge an appeal with the Land & Environment Court.

Don't have the time?

If you want to embark on a property development but this all seems too hard, consider using a development manager who is able to guide your project and teach you along the way.


A development manager will handle your development, which means you're handing over all of the details to someone with the experience needed to successfully manage your investment.

Some of the responsibilities of a development manager include:

- Interpret plans, estimate costs and quantities of materials needed
- Manage the DA process with council
- Plan construction methods and procedures
- Coordinate the supply of labour and materials
- Supervise construction sites and direct site managers and subcontractors to make sure standards of building performance, quality, cost schedules and safety are maintained
- Study building contract documents and negotiate with building owners and subcontractors
- Control preparation of cost estimates and documentation for contract bids
- Control payment to subcontractors by valuation of completed works
- Make sure that building regulations, standards and by-laws are enforced in building operations
- Consult with surveyors, architects, engineers and other technical workers to make sure that design intentions are met ■

Jo Chivers is the principal of Property Bloom, which manages developments for clients in the Hunter region, NSW.

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