Tips for building and planning approvals

If your property has been affected by the recent flooding and Cyclone Yasi, this factsheet will help answer building concerns.

**Do I need a building approval to repair my home or other building?**

Where the work involves repairing or replacing fixtures, kitchen cupboards, vanity units or floor coverings, this does not require a building approval. In addition, repairing or replacing internal wall and ceiling linings will not require a building approval. However, when the work is being carried out, it is important the materials used meet relevant Australian Standards and linings are fixed in accordance with the manufacturer’s installation instructions.

If more extensive work is required that affects the structural components of the building, an approval will be required. Exemptions apply for minor structural work where the work does not affect more than 20 per cent of the building’s structural components of the same type. Owners and occupiers should also take steps to find out whether their building’s fire safety installations have been damaged or affected by flood waters before allowing the building to be re-occupied.

Where you propose to repair the flood affected dwelling to the lawful original condition immediately prior to the flood, no planning application is required. However, a building approval may be required from a building certifier for some repairs, particularly if they are structural in nature (see Building Approvals questions). You are encouraged to seek the advice of a building certifier prior to making repairs to your home.

If in doubt, check with your local government or a private building certifier to determine if an approval is required. For fire safety installation issues on larger buildings, such as sprinkler systems, fire detection and alarm systems or stairwell pressurisation systems, check with the Queensland Fire and Rescue Service.

**Do I need a building approval to substantially rebuild my home or other building?**

A building certifier will need to confirm the proposed building complies with the Building Code of Australia and other relevant codes before construction begins. Certifiers are required to inspect the work at various stages as all building work must comply with the relevant codes and standards, such as the Building Code of Australia and the Queensland Development Code. If in doubt, check with your local government or a private building certifier.
Do I need a planning approval from my local government to completely rebuild my home or building?

Provided you are replacing your building to its original lawful condition immediately prior to the flood, it is likely that no planning approval is required. However, it is recommended that you seek advice from your local government and review the previous floor levels and building materials in an attempt to minimise flood damage in the future. If you do intend to change floor levels, you are advised to consult with a building certifier.

However, if you intend to change the location, size, materials or use of the building you should contact your local government to determine if a planning approval is required before commencing the work.

My building is listed on a state or local heritage register, do I need planning approval to carry out building work?

If you are undertaking flood repair works to restore the dwelling or building to its original lawful condition prior to the floods, it is unlikely that planning application is required. However, you should contact Queensland’s Department of Environment and Resource Management and your local government prior to undertaking any building work to confirm if a planning approval is required before commencing the work.

Stumps are a major part of a building’s structure. If the stumps are leaning, it is likely that the rest of the building has also moved. Before entering or occupying the building with leaning stumps, it is recommended that specialist advice from an engineer or other competent person is obtained. This will help determine what needs to be done to reposition the stumps in the correct position to make the house structurally sound.

If building work is required because of an emergency endangering the life or health of a person, or the structural safety of a building, then it is not an offence to carry out the work without having a building approval. However, the person undertaking the building work must give written notice of the development to the assessing authority (either the local government or private building certifier) as soon as practicable after starting the development.

Do I need a building approval to raise the height of my home or building?

Yes, you will need to contact your local government or a private building certifier to obtain a building approval. If the new proposed height exceeds the maximum height allowances specified in your local government planning scheme (particularly for character areas and dwellings), you may need a planning approval.

Do I need a building approval to demolish my home or building after flood damage has made it structurally unsafe or dangerous?

Where your property is outside of a character area and your home or building is structurally unsound, you can demolish the building without obtaining planning approval. However, building approval may
be required to demolish of a building. If in doubt, check with your local government or a private building certifier to determine if an approval is required.

If your house is a character house in a character area or where you have a state or locally listed character place, a planning application is likely to be required. In this instance you will need to contact your local government.

**Can the local government make me demolish my home or other building?**

Local government has powers to require owners to demolish dangerous or dilapidated buildings and structures. Local government may take action to demolish buildings if owners refuse to comply with an enforcement notice. Owners may appeal enforcement notices to the Building and Development Dispute Resolution Committees.

**Do I need planning approval to relocate my home or building on my site?**

For lots 450 square metres or more or with a width greater than 15 metres, a development application is generally not required except where the dwelling is:

- proposed to be located in an area affected by mining
- below the 1 in 20 year flood line
- within an urban stormwater flow path
- within a character zone or where the dwelling is a listed character building.

This should however, be confirmed with your local government. If your are proposing to place the building close to your land boundaries, you should also check with your building certifier to determine if there are any boundary setback relaxations.

For lots less than 450 square metres, you should consult directly with your relevant local government as regulations for small lots vary between each local government.

**Do I need planning approval to fill my site to achieve adequate flood immunity?**

Any filling or excavation in flood affected areas (i.e. below the 1 in 100 year flood line) requires approval from your local government. Where land is situated above the 1 in 100 year flood line, approval may also be required for any works within a waterway corridor, wetland, where the site is listed on the Contaminated Land Register or the Environmental Management Register, or where acid sulfate soils are present. For further information, contact your relevant local government.

**Do I need planning approval to replace or repair a pontoon damaged by flood waters?**

If you are replacing a pontoon to the lawful original state immediately prior to the flood, planning approval is not likely to be required. However, regulations on pontoons vary across each local government and you may be required to obtain planning approval in the form of an operational works approval. For further information, contact your local government.

**How do I get a copy of my house/building plans to ensure I am replacing like-for-like?**

Your local government may be able to provide you with a copy of your approved building plans. Alternatively, where the house is constructed after 1998, the building certifier for the original approval may still have copies. Always ensure that the plans include adequate notation of approval (this is usually in the form of a dated stamp).
The floods have caused significant damage to the floor boards in my house. Do I need a building approval to remove and replace the damaged boards?

It depends on the extent of the damage. If only a small part of the floor needs replacing, no. However, if the entire floor, or a substantial part of it, needs replacing it is possible that damage may have also occurred to the framework supporting the floor. Floor boards and floor framing are a significant structural component of a building so it is important that they be checked and replaced to the correct standards if necessary. In these cases, it is likely that a building approval will be required. If in doubt, check with your local government or a private building certifier to determine if an approval is required.

I am unable to get approved plans of my house. How do I ensure I am replacing like-for-like?

In the absence of approved plans, the use of evidence such as photographs, aerial photography, sewer and drainage plans may be combined to establish evidence of like-for-like replacement. Additional guidance could be provided by consulting with a building certifier who has local knowledge or the local government, prior to undertaking any building work.

Who can assist me with detailed advice?

For building related matters, a private building certifier or a building certifier employed by local government can assist with advice. For planning matters relevant to the local government, the building certifier may be able to assist, but it is also likely that you or the building certifier will need to contact the local government.

Environmentally relevant activities

Do I need planning approval, from my local government for an environmentally relevant activity (ERA) that has been damaged by flood waters?

No. Provided the environmentally relevant activity use complies with all conditions of approval(s), and you intend to return to "business as usual" within the near future, no interim modifications are required. However, where it is likely that the use will remain at a reduced level, consult with your local government. If due to flooding any environmental damage has or is likely to occur (e.g. hazardous material spill etc.), you must immediately report any incidents to the Department of Environment and Resource Management and your local government.

General advice

What’s the difference between a planning and a building approval?

Planning and building approvals deal with different issues. Generally, planning approval determines what uses and activities can occur on the land to minimise any potential impacts on surrounding properties. Building approvals ensure buildings are constructed to standards that address health and amenity, safety (structural and fire) and sustainability.

Applications for planning approval are assessed against a local government’s planning scheme, while applications for building approvals are assessed against the building assessment provisions, which include the Building Code of Australia and the Queensland Development Code. Accordingly, planning and building approvals are normally only issued once for an activity. However, building approvals, due to their technical nature, may require various inspections at different stages of the building process.
If a planning approval is required for a development, then a building approval cannot be given by a building certifier until the planning approval is obtained.

**How do I find out if my property is located within a character area?**

Your local government will be able to advise you if your premises is located within a character area in addition to a number of other planning and building-related constraints, including any local laws, that may be applicable to your premises.

**How do I get a copy of my house or building plans to ensure I am replacing like-for-like?**

Your local government may be able to provide you with a copy of your approved building plans. Alternatively, where the house is constructed after 1998, the building certifier for the original approval may still have copies. Always ensure that the plans include adequate notation of approval (this is usually in the form of a dated stamp).

**I am unable to get approved plans of my house. How do I ensure I am replacing like-for-like?**

In the absence of approved plans, the use of evidence such as photographs, aerial photography, sewer and drainage plans etc. may be combined to establish 'beyond reasonable doubt' of like-for-like replacement. However, always consult first with a building certifier and your local government prior to undertaking any building work.

**Who can assist me with detailed advice?**

For building-related matters, a private building certifier or a building certifier employed by local government can assist with advice. For planning matters relevant to the local government, the building certifier may be able to assist, but it is also likely that you or the building certifier will need to contact the local government.

**I wish to make minor changes to my character house. What is considered to be "generally in accordance" with approved plans?**

This needs to be assessed on a case by case basis. An application may be required pursuant to the relevant planning scheme or request for a permissible change (modification) may be required under Section 367 of the Sustainable Planning Act 2009. For further information, contact your relevant local government.

**Can the local government make me demolish my home or building?**

Yes. Local governments have powers to require owners to demolish dangerous or dilapidated buildings and structures but this is usually as a last resort. The local government may take action to demolish buildings if owners refuse to comply with an enforcement notice. Owners may appeal enforcement notices to the Building and Development Dispute Resolution Committees.

**More information**

For more information on pool safety laws relating to pool fencing, visit the Department of Local Government and Planning’s website, www.dip.qld.gov.au/poolsafety