

Change in Land Use

Please contact Council before the commencement of your business or use of land to ensure that if you are changing the use a Development Approval is obtained prior to its commencement.

A Development Approval is required if:

- You propose to use the land in a way which differs from its approved land use. For example, you wish to use the office as a consulting room.
- You propose a land use which is additional to a previously established use.
- You propose to revive a land use following a period of non-use (2 years).
- The change constitutes a change in building classification.

6—Concept of change in the use of land

- (1) For the purpose of determining whether a change in the use of land has occurred, the commencement or revival of a particular use of the land will, subject to subsection (2), be regarded as a change in the use of the land if—
 - (a) the use supersedes a previous use of the land; or
 - (b) the commencement of the use or the revival of the use follows upon a period of non-use; or
 - (c) the use is additional to a previously established use of the land which continues despite the commencement of the new use.
- (2) The revival of a use of land after a period of discontinuance will be regarded as the continuation of an existing use unless—
 - (a) the period intervening between the discontinuance and revival of the use exceeds two years; or
 - (b) during the whole or a part of the period intervening between its discontinuance and revival, the use was superseded by some other use; or
 - (c) the Development Assessment Commission or a council has made a declaration under subsection (3) and the declaration remains unrevoked.
- (3) Where—
 - (a) a particular use of land has been discontinued for a period of six months or more (being a period that extends up to the date on which the Development Assessment Commission or a council acts under this subsection); and
 - (b) the revival of that use would in the opinion of the Development Assessment Commission or council be inconsistent with the relevant Development Plan and have an adverse effect on the locality in which the land is situated, the Development Assessment Commission or council may, by notice in writing served on the owner and the occupier of the land, declare that a revival of the use will be treated, for the purposes of this Act, as a change in the use of the land.
- (4) The owner or occupier may, within one month after service of a notice under subsection (3), or such extended period as may be allowed by the Court, appeal to the Court against the declaration.
- (5) On an appeal under subsection (4), the Court may confirm or revoke the declaration.
- (6) For the purposes of this section, a particular use of land will be disregarded if the extent of the use is trifling or insignificant.