

Policy for the Assessment of Council's Own Development Applications

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Reaffirmed: 26/02/2013 • **Minute Number:** MIN08.1691, MIN13.110, MIN17.290 • **File:** 3621E • **Produced By:**
Planning, Environment & Development Group • **Review Date:** 1/12/2020

1. PURPOSE

To ensure that where a Development Application (DA) is lodged and Council is both the applicant and landowner, the assessment, the consideration of submissions and the recommendations put forward for Council's consideration of that DA,

- are free from any conflicts of interest, and
- are undertaken independently and in an unbiased manner.
- are in line with the Independent Commission Against Corruption (ICAC)'s Position Paper on "*Corruption Risks in NSW Development Approval Processes*" dated September 2007.

This policy is formulated following Council's consideration of the ICAC Position Paper recommending: "*That individual local councils take steps to manage their conflicting roles in matters where they are the regulator of land and have a financial interest in the outcome of the matter.*"

2. APPLICATION OF THIS POLICY

This policy applies to all DAs under Part 4 of the *Environmental Planning & Assessment (EP&A) Act 1979*:

- 2.1. Where Council is the applicant and landowner [including applications made under the *SEPP (Infrastructure) 2007*] requiring development consent, and
- 2.2. Where Council may have an interest in the land (even if Council is not the landowner); eg, Council land under contract for sale or Council is the trustee of the land.

3. PROVISIONS

Category of DA where Council is both Applicant and Landowner, or where Council has an interest on the land	Provision
Minor ¹ DA	<ul style="list-style-type: none"> • Assessment by Council staff not involved in the application. • Determination under delegated authority².
Routine larger subdivision DA (not minor) or other form of DA that takes place within Council's industrial estates or on Council reserves and complies with zoning, landuse provisions and Council policies.	<ul style="list-style-type: none"> • Assessment by Council staff not involved in the application and peer reviewed by senior member of staff. • Determination under delegated authority³ by senior member of staff. • Report to council would be an option if substantial submissions received.
Major DA.	<ul style="list-style-type: none"> • Engage external independent town planning consultant (in accordance with Council's <i>Purchasing Policy</i>), to: <ul style="list-style-type: none"> - assess DA in accordance with requirements of Section 79C of the <i>Environmental Planning & Assessment (EP & A) Act 1979</i>; - consider any submissions received following DA notification in accordance with Council's <i>Community Consultation Policy for Development Applications (Including Subdivisions) and the Formulation of Development Guidelines and Policies</i>; which may include addressing a resident briefing meeting; and - prepare and submit to Council a report on the Section 79C assessment and consideration of submissions, including recommendations for the consideration of full Council.

¹ Minor DA refer to development that is small-scale, routine operational and/ or non-controversial. The determination of "minor" shall be made after consideration of the following criteria, at the discretion of the General Manager [Director Planning, Environment & Development Group]:

- The estimated value of the works to be undertaken;
- The potential impact on surrounding residential amenity associated with the proposed development;
- The consistency of the proposed works with an existing Council Management Plan or strategy;
- Whether the proposal involves any substantial variations from existing Council policy; and
- Whether the proposal will lead to any financial benefit for Council.

² Other than for development on community land under section 47E of the *Local Government Act 1993*.

³ Other than for development on community land under section 47E of the *Local Government Act 1993*.

3.1. This Policy does not apply to applications where the original DA (eg, a parent subdivision application) has been subjected to this policy and a subsequent proposed development is consistent with the original DA.

3.2. Professional Courtesy

Where a DA project manager (responsible staff within Council) wishes to discuss any matter relating to the DA lodged or where a DA project manager needs to approach the DA assessing officer (whether Planning, Environment & Development staff or external independent consultant), the DA project manager shall exercise professional courtesy by making an appointment to do so via e-mail or telephone call.

The DA assessing officer, in return, shall also exercise professional courtesy by making the appointment to allow the DA project manager to discuss the matter relating to the DA.

4. IMPLEMENTATION

To be implemented by Planning, Environment & Development Group.

5. REVIEW

This policy will be reviewed within one year of the election of every new Council, or earlier should circumstances arise to warrant revision.