

Title of Policy	Referral of Development Applications to Council		
Responsible Department	Environment & Sustainability	Document Register ID	250.2018.438.1
Policy Owner	Director of Environment & Sustainability	Review Date	08/03/2018
Date of Council Meeting	25 February 2018	Resolution Number	Number 18/18
Legislation, Australian Standards, Code of Practice	Environmental Planning & Assessment Act 1979 Local Environmental Plan (LEP) Development Control Plan (DCP)		
Aim	To improve delivery timeframes of Development Applications		

The NSW Department of Planning and Environment published the '*Development Assessment Best Practice Guide - To assist councils to improve delivery timeframes*' (the Guide) document in 2017.

The Guide (p.11) states that "...councils should make every effort to maximise and standardise development assessment delegations to ensure a consistent and efficient decision making process. Delegations should:

- Facilitate decisions which reflect the nature of the DA.
- Acknowledge the judgement of their professional staff, particularly in planning and environmental management.
- Seek the continued merit assessment at the appropriate level to minimise politicisation of the decision making process".

The following is provided to clarify situations where Development Applications will be referred to Council for determination, and where applications will be determined by duly authorised Council staff in accordance with Delegations.

Development Applications will be referred to Council for determination in the following situations:

- Where there are more than five (5) objectors by way of individual submissions from different households (note that a petition or pro-forma documents are counted as one objection).
- The development does not comply with an adopted council policy (including a development control plan), development standard in a Local Environmental Plan unless, in the assessment officer's opinion:
 - compliance with the policy is unreasonable and unnecessary in the circumstances;
 - any variation of a development standard has been addressed in accordance with Clause 4.6 or any other requirements of the council's Local Environmental Plan.
- The development is of Regional or State Significance.
- Notification in writing has been received by at least three councillors that the DA is required to be submitted to the elected council for determination. Any such notification should include reasons or policy position for why the application requires reporting to the council for determination.
- Applications involving a variation to a Council Contributions plan.
- Applications made in accordance with Clause 4.6 of the relevant Local Environmental Plan requiring the initial decision to support or not support the application for referral to the NSW Department of Planning and Environment.
- Development Applications deemed to be of substantial public interest, whether or not significant levels of relevant public submissions have been received.
- Where the application is by or on behalf of a Councillor or a designated Senior Staff member.

- Where the application is by or on behalf of a Council staff member (other than a designated Senior Staff member) for other than a single dwelling house (Class 1 building), an outbuilding (Class 10 building), or renovations/extension/demolition of a Class 1 or Class 10 building.
- Where Council is the owner or trustee of the land.

Development Applications will be determined by duly authorised staff members under delegated authority in the following situations:

- Where an application does not meet specific requirements of the relevant Local Environmental Plan (LEP) or other Legislation (i.e. where it would be illegal to approve) and therefore must be refused.
- Where NSW Department of Planning and Environment concurrence has not been granted for applications made under Clause 4.6 of the relevant Local Environmental Plan, and the application therefore must be refused.
- Where a request for variation to a Council policy and/or DCP is not considered unreasonable in the circumstances, and the General Manager or Staff member has delegated authority to approve such amendments to the relevant policy and/or DCP.
- Applications where objections are not founded on fact and merit (for example, objections based on a personal or neighbourhood dispute) – even if a compromise position cannot be reached.
- Applications by or on behalf of a staff member (other than a designated Senior Staff member) subject to the Class of building and the provisions regarding submissions as listed above. (Note that the staff member making the application must submit a written declaration of interest to the General Manager and must not be involved in any part of the application administration, processing or assessment).

Following a determination, an applicant has the right to request a ‘Review of a Determination’ under Section 82A of the *Environmental Planning & Assessment Act 1979** (EP&A Act); to request a modification under Section 96 of the EP&A Act; and/or to lodge an appeal to the Land & Environment Court under Section 97 of the EP&A Act.

*Note: A Review of a Determination is not available for Integrated Development or Designated Development

Documentation

Development Control Plan (DCP)

Local Environmental Plan (LEP)

Council Contributions Plan

Variation

Council reserves the right to review, vary or revoke this policy and should be reviewed periodically to ensure it is relevant and appropriate.