

Newcastle City Council

Policy

Assessment of Council Related Development Applications

May 2016

Assessment of Council Related Development Applications



Policy title	Assessment of Council Related Development Applications
Policy owner	Director Planning and Regulatory / Manager Development and Building
Policy expert	Senior Development Officer (Projects)
Prepared by	Development and Building Services
Approved by	Interim Chief Executive Officer
Date approved	6 April 2016
Commencement Date	6 April 2016
Version	3
Category	Development and Building
Keywords	assessment, development, application, conflict of interest, independent, related
Next revision date	30 June 2020
Details of previous versions	Independent Assessment of Council related Development Applications (ECM4492089 & #3882577) Development Assessment panel (ECM#44445524)
Relevant strategic direction	Open and Collaborative Leadership
Relevant legislation/codes (reference to specific sections)	<i>Local Government Act 1993</i> (NSW) <i>Environmental Planning and Assessment Act 1979</i> (NSW)
Related policies/documents	Code of Conduct Procurement Policy Newcastle Local Environment Plan(s) Newcastle Development Control Plan(s) Register of Delegations
Related forms	Conflict of Interest Declaration Form – Independent Planning Consultants
Required on website	No
Authorisations	NIL

Table of Contents

Part A	Preliminary	1
1	Purpose	1
2	Scope	1
3	Principles	1
4	Definitions	1
Part B	Procedure	3
5	Appointment of Independent Planning Consultant.....	3
6	Selection of Independent Planning Consultant.....	3
7	Assessment and determination of Council Related Development Applications	3

Part A Preliminary

1 Purpose

- 1.1 The purpose of the policy is to provide an independent and transparent review process for assessment and determination of Council Related Development Applications.

2 Scope

- 2.1 This policy applies to:
- 2.1.1 Development applications where Council is the owner of the land or where Council holds a commercial interest in the land; and
 - 2.1.2 Development applications lodged by a Councillor, State or Federal Member of Parliament, a Designated Council Officer or any officer of Development and Building; and
 - 2.1.3 Development applications to be determined by the Joint Regional Planning Panel (JRPP) where the elected Council has resolved to make a submission to the JRPP.

3 Principles

- 3.1 Council commits itself to the following principles:
- 3.1.1 **Integrity** – avoiding financial or other obligations that might reasonably be thought to influence a Council Officer in the course of their duties.
 - 3.1.2 **Impartiality** – decision making based on merit and in accordance with statutory obligations. This means fairness to all and impartial assessments.
 - 3.1.3 **Accountability** – being accountable to the public for decisions and actions. This means recording reasons for decisions, submitting to scrutiny, keeping proper records and establishing audit trails..
 - 3.1.4 **Openness** – through open decision making and transparency in actions undertaken. This means recording, giving and revealing reasons for decisions, revealing other avenues available to the client or business, when authorised, offering all information and communicating clearly.

4 Definitions

- 4.1 **Council** means Newcastle City Council.
- 4.2 **Council Related Development Application** means a development application which meets the criteria provided in clause 2.
- 4.3 **Designated Council Officer** means a Director or any Council Officer who has an actual or perceived conflict of interest in the determination of a development application and that conflict of interest cannot be sufficiently managed if the application is routinely assessed and determined.
- 4.4 **Development Assessment Panel** means a panel principally comprising senior planning staff from Newcastle City Council's Planning and Regulatory Group, subject to formal operating procedures.
- 4.5 **Independent Planning Consultant** means a qualified town/urban planning consultant recognised by the Planning Institute of Australia.

4.6 **Nominated Representative** means a Council Officer nominated by Council as a contact point for communication with Independent Planning Consultants. The Nominated Representative will be appointed on the basis that he or she does not have a conflict of interest in the Council Related Development Application.

Unless stated otherwise, a reference to a clause is a reference to a clause of the policy.

Part B Procedure

5 Appointment of Independent Planning Consultant

- 5.1 An Independent Planning Consultant is to be appointed when a Council Related Development Application receives 25 or more objections or has a construction cost greater than \$10 million.

6 Selection of Independent Planning Consultant

- 6.1 The Independent Planning Consultant must be selected:
- 6.1.1 From Council's list of preferred consultants determined by an expressions of interest process; and
 - 6.1.2 On the basis that they have relevant skills and expertise to assess the Council Related Development Application; and
 - 6.1.3 Having regard to any conflicts of interest or potential conflicts of interest; and
 - 6.1.4 Having regard to the Independent Planning Consultant's quote for the works.

Council must ensure it uses a range of Independent Planning Consultants on its panel, where practical.

7 Assessment and determination of Council Related Development Applications

- 7.1 Council Related Development Applications with 25 or more objections or a construction cost greater than \$10 million.
- 7.1.1 If a Council Related Development Application is lodged:
 - a) By Council as the owner of the land or where Council holds a commercial interest in the land, by a Councillor, by a State or Federal Member of Parliament or by a Designated Council Officer and the application has received 25 or more unresolved objections; or
 - b) by Council as the owner of the land or where Council holds a commercial interest in the land and the application has a construction cost of more than \$10 million;

an Independent Planning Consultant will be responsible for assessing the application and making recommendations about the approval, refusal or deferral of the application to the Development Application Committee (or delegate).

Council's Development Application Committee (or delegate) is responsible for determining Council Related Development Applications provided for in this subclause.

7.2 Council Related Development Applications with between 10 and 24 objections, a construction cost between \$1 million and \$10 million, involving a member of the Executive Management Team or involving an officer of Development and Building

7.2.1 If a Council Related Development Application is lodged:

- (a) by Council as the owner of the land or where Council holds a commercial interest in the land, by a Councillor, by a State or Federal Member of Parliament or by a Designated Council Officer and the application has received between 10 and 24 unresolved objections; or
- (b) by any member of the Executive Management Team or by any officer of Development and Building; or
- (c) by Council as the owner of the land or where Council holds a commercial interest in the land and the application has a construction cost of between \$1 million and \$10 million;

An Independent Planning Consultant will be responsible for peer reviewing the assessment and determination recommendation prepared by a Development Officer.

The Manager Development and Building is responsible for determining Council Related Development Applications provided for in this subclause, other than an application lodged by the Manager Development and Building, after considering the assessment and determination recommendation prepared by a Development Officer and the outcome of a peer review by an Independent Planning Consultant.

The Director Planning and Regulatory is responsible for determining Council Related Development Applications lodged by the Manager Development and Building, after considering the assessment and determination recommendation prepared by a Development Officer and the outcome of a peer review by an Independent Planning Consultant.

7.3 Other Council Related Development Applications

7.3.1 If a Council Related Development Application is lodged:

- (a) by Council as the owner of the land or where Council holds a commercial interest in the land, by a Councillor, by a State or Federal Member of Parliament or by a Designated Council Officer and the application has received less than 10 unresolved objections; or
- (b) by Council as the owner of the land or where Council holds a commercial interest in the land and the application has a construction cost of less than \$1 million;

A Development Officer will be responsible for preparing the assessment and determination recommendation for review by the Development Assessment Panel.

A Development Officer is responsible for determining Council Related Development Applications provided for in this subclause, after considering the recommendation of the Development Assessment Panel.

7.4 Joint Regional Planning Panel

If a Council Related Development Application is to be determined by the JRPP and the elected Council has resolved to make a submission to the JRPP, an Independent Planning Consultant will assist Council's nominated representative to prepare the submission.