

Development Assessment & Decision Making Council Policy

Purpose

Under s.377 *Local Government Act 1993* Council may delegate any function of Council (other than the items listed in the Act) to the Chief Executive Officer. The assessment and determination of development applications and other forms of approval are functions that may be delegated.

Under s.378 *Local Government Act 1993* the Chief Executive Officer may in turn sub-delegate a function delegated to the Chief Executive Officer by the Council to any other person (including another employee of Council).

S.380 *Local Government Act 1993* requires delegations to be reviewed in the first 12 months of each term of office of the Council.

Under the *Environmental Planning and Assessment Act 1979* there are statutory obligations to determine all applications promptly (i.e. within 40 days). If an application has not been determined within 40 days a right of appeal to the Land and Environment Court arises.

Objectives

- To provide guidelines for the assessment and determination of development applications and other approvals for development activity.
- To enable all applications to be determined promptly in an efficient and effective manner.

Scope

This Policy applies to the determination of applications and approvals under the *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*.

Definitions

Nil

Policy Provisions

To meet the statutory provisions, it is acknowledged that there needs to be a system of delegation to staff to assess and determine 'minor/routine' applications for approvals while Council retains an assessment and determination role for 'significant/controversial' applications.

To achieve this balance the following applications will be referred to Council for determination:

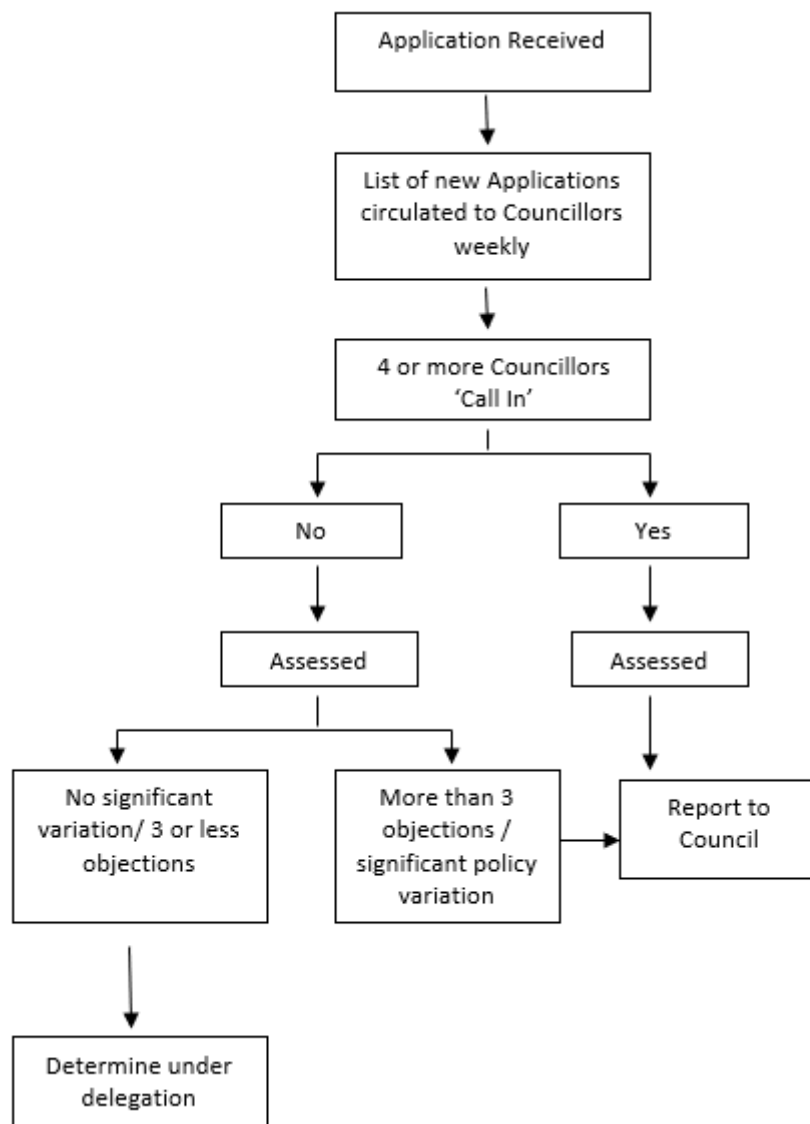
- Proposal involving a significant environmental, economic or social impact on the local community
- Proposal is listed in *State Environment Planning Policy (State and Regional Development) 2011*
- Applications to be determined by the Joint Regional Planning Panel
- Applications involving more than three reasonable and unresolved objections
- A proposal involving a significant variation in Council policy or development standard without demonstrating an alternative solution to meeting the policy objectives
- A proposal involving a variation to the *Yass Valley Local Environmental Plan 2018* or Development Contributions Plan
- An application that seeks a review by Council of a determination made under delegated authority

- An application called in by Councillors

A list of new applications will be prepared weekly and distributed to Councillors. Any Councillors interested in a particular application can contact the Director Planning and Environment and/or inspect the application during office hours. Councillors are strongly encouraged to make these initial inquiries prior to determining whether or not to seek 'call in' of the application.

For an application to be 'called in' at least four Councillors will need to nominate the item in writing. Those applications 'called in' will be reported to Council for determination. Applications not 'called in' will continue to be assessed in the usual way.

The following flowchart outlines the assessment and decision-making process for Development Applications and other approvals.



Council Related Development

A Council related development means development for which the Council is the applicant developer (whether lodged by or on behalf of Council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.

In accordance with the "Council-related Development Application Conflict of Interest Guidelines" (Department of Planning and Environment), Council related development applications are to be referred to the Chief Executive Officer (or a delegate) for a conflict-of-interest risk assessment.

The Chief Executive Officer is to:

- a. Assess whether the application is one in which a potential conflict of interest exists
- b. Identify the phase(s) of the development process at which the identified conflict of interest arises
- c. Assess the level of risk involved at each phase of the development process
- d. Determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies outlined in this Policy and the outcomes of the Chief Executive Officer's assessment of the level of risk involved as set out in this Policy

Note: The Chief Executive Officer could determine that no management controls are necessary in the circumstances

- e. Document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

Appropriate management controls may include any of the following:

Assessment and Determination

- The assessment and/or determination of an application are to be undertaken by Council under delegation – this might be appropriate if the proposal is considered a low-level risk or non-controversial
- The application could also be referred for external assessment and/or determination to either another Council, a Regional Planning Panel, a consultant or a contractor – this might be appropriate for development where Council has a commercial interest in the land, or the development is seen to be a priority for the community

Regulation and Enforcement

- Engagement of a private certifier or contractor
- Peer review by a neighbouring Council and/or entering into a shared services arrangement with a neighbouring Council

The management strategy for the following kinds of development is that no management controls need to be applied to:

- Commercial fit outs and minor changes to the building façade
- Internal alterations or additions to buildings that are not a heritage item
- Advertising signage
- Minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services)
- Development where the Council might receive a small fee for the use of their land

Review

The review of this Policy will take account of relevant Legislation and State Government Policies, best practice guidelines and Council plans and priorities.

Responsibilities

Development Assessment staff are required to take into account the provisions of this Policy in relation to any development applications.

References

This policy is to be read in conjunction with the following:

Legislation, Policies and Procedures	<i>Environmental Planning and Assessment Act 1979</i>
	<i>Environmental Planning and Assessment Regulation 2021</i>
	<i>Local Government Act 1993</i>
	Yass Valley Local Environmental Plan 2013

Council-related Development Application Conflict of Interest Guidelines (Department of Planning and Environment)

Approval History

Stage	Date	Comment	MagiQ Reference
Original/Review		Approved by	
Original	23/06/2011	EMT	
Review	13/07/2011	Council (239)	
Review	27/03/2013	Council (213)	
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Ownership and Approval

Responsibility	Role
Author	
Owner	
Endorser	
Approver	Council