

DETERMINATION OF DEVELOPMENT AND RELATED APPLICATIONS

INTRODUCTION

All development and related applications lodged with Council are assessed by suitably qualified and experienced planning or building officer in the Development Services Section.

Some applications that require specialist input are referred to various other Council officers for advice. Where Council lacks the in-house expertise, resources or where a conflict of interest exists, external consultants are engaged to undertake the review and provide independent advice.

All development and related applications processed by Council require a prior review of the assessment report, the recommendation and the draft notice of determination by an equal or more senior Council officer. Only after these documents have been peer reviewed and endorsed by the senior Council officer, can an application be determined by the appropriate determination authority.

Council's "Managing conflict of interests with Council-related development Policy" also provides a framework for dealing with development applications in relation to Council-related development or where a staff member or Councillor is the applicant.

The policy establishes principles for action where a potential conflict of interest arises and sets out the statutory and legislative requirements for Council to meet its governance and probity responsibilities. This policy operates in tandem with the [Environmental Planning and Assessment Act 1979](#) (EP&A Act) and various Environmental Planning Instruments that determine the appropriate consent authority, depending on the development type.

Council's assessment process is based on the NSW Government's Development Assessment Best Practice Guide.

Council is also routinely audited by independent Auditors to ensure the integrity of Council's development assessment process is maintained.

The approval pathway of an application is generally determined by the development type. Applications can be determined under **delegated authority**, the **Independent Planning Commission/Minister for Planning**, **Sydney Western City Planning Panel** or the **Wollondilly Local Planning Panel**, depending on the development type.

OFFICER DELEGATION

The majority of applications processed and determined by Council officers under **delegated authority**.

All applications determined under delegated authority require a prior review of the assessment report, the recommendation and the draft notice of determination by an equal or more senior officer. Only after these have been peer reviewed and approved by the senior officer can an application be determined.

Certain development types cannot be determined under delegated authority. These applications are determined by the **Independent Planning Commission/Minister for Planning**, **Sydney Western City Planning Panel** or the **Wollondilly Local Planning Panel**, depending on the development type.

INDEPENDENT PLANNING COMMISSION AND THE MINISTER FOR PLANNING

Development that meet **State Significant Development** criteria are determined by the Independent Planning Commission (IPC) or the Minister for Planning in accordance with Schedule 1 and 2 of [*State Environmental Planning Policy \(Planning Systems\) 2021*](#) (Planning Systems SEPP).

These applications are lodged directly with NSW Department of Planning, Housing and Infrastructure (DPHI). Council does not assess the application or prepare an assessment report. Council's role is to provide advice which is considered in the assessment report which is prepared by DPHI for consideration and determination by the IPC.

[Schedule 1](#) of the Planning Systems SEPP specifies that the SSD listed below generally has a development cost of more than \$30 million (unless indicated otherwise):

Intensive livestock agriculture, aquaculture, agricultural produce industries and food and beverage processing, timber milling, timber processing, paper and pulp processing, mining, petroleum (oil and gas), extractive industries, geosequestration, metal, mineral and extractive material processing, Chemical, manufacturing and related industries, other manufacturing industries, warehouses or distribution centres (>\$50m), cultural, recreation and tourist facilities, hospitals, medical centres and health research facilities, educational establishments (>\$20m), correctional centres and correctional complexes, air transport facilities, port facilities and wharf or boating facilities, rail and related transport facilities, electricity generating works and heat or co-generation, water storage or water treatment facilities, sewerage systems, waste and resource management facilities, remediation of contaminated land, Data centres (>15 megawatts), housing development carried out by certain public authority, in-fill affordable housing (>\$75m), build to rent housing (>\$50m), seniors housing, cemeteries and thermal energy from waste development.

SYDNEY WESTERN CITY PLANNING PANEL (SWCPP)

Development that meet the **Regionally Significant Development** criteria in [Schedule 6](#) of the Planning Systems SEPP are determined by the Sydney Western City Planning Panel (Panel).

Theses applications are lodged with Council and Council officers are required to undertake the planning assessment, draft an assessment report and recommendation for the Panel's determination.

Regionally Significant Development means:

- General development over \$30 million
- Council related development over \$5 million
- Crown development over \$5 million
- Private infrastructure and community facilities over \$5 million
- Eco-tourist facilities over \$5 million
- Particular designated development (extractive industries, marinas and waste management facilities)

- Coastal subdivision
- Certain coastal protection works
- Development subject to delays in determination
- Development in council areas where development assessment unsatisfactory
- S8.2 review applications where the DA, the subject of the S8.2 application, was determined by the SWCPP.
- S4.55(2) applications proposing modifications to a development consent that was issued by the SWCPP, where the works proposed in the DA still constitute “Regional Development”.

WOLLONDILLY LOCAL PLANNING PANEL

Development applications, Section 4.55 applications to modify a development consent and Section 8.2 review applications (other than those that must be determined by the IPC or SWCPP) that meet the criteria under Schedule 1 of the Local Planning Panels Directions issued by the Minister for Planning on 6 March 2024 are determined by the Wollondilly Shire Local Planning Panel (Panel).

These applications are lodged with Council and Council officers are required to undertake the planning assessment, draft an assessment report and recommendation for the Panel’s determination.

Applications that must be determined by the Panel can be summarised as follows:

- Applications under section 4.55(2) of the Act for the modification of development consents granted by the Panel that:
 - Propose amendments to a condition of development consent recommended in the council assessment report but which was amended by the Panel, or
 - Propose amendments to a condition of development consent that was not included in the council assessment report but which was added by the Panel, or
 - Meet the criteria for development applications set out in the Schedules to this direction relating to conflict of interest, contentious development or departure from development standards.

SCHEDULE 1 – LOCAL PLANNING PANELS DIRECTION

1. Conflict of interest

Development for which applicant or land owner is:

- (a) the council,
- (b) a councillor,
- (c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- (d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- (e) a relative (within the meaning of the [Local Government Act 1993](#)) of a person referred to in (b) to (d).

but not development for the following purposes:

- (a) internal alterations and additions to any building that is not a heritage item,
- (b) advertising signage,
- (c) maintenance and restoration of a heritage item, or
- (d) minor building structures projecting from the building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

2. Contentious development

Development that: is the subject of 10 or more unique submissions by way of objection.

An ***approved submissions policy*** is a policy prepared by the council and approved by the Secretary of the Department of Planning, Industry and Environment which details the circumstances in which a local planning panel or council staff should exercise the consent authority functions of the council, based on the number and nature of submissions received about development.

A *unique submission* means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

3. Departure from development standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Note: If the Secretary of DPHI allows concurrence to be assumed by Council staff for contravening development standards, the Panel can delegate these applications to council staff to determine.

On 29 October 2020, the Panel resolved as follows:

The Panel delegates the determination of future development applications to Council officers on the following lots that require a variation greater than 10% to Clause 4.1 of the Wollondilly LEP in respect of the required minimum lot size (100ha):

Lots 518, 519, 520, 521, 522 and 523 DP 1201969 (Nos. 45, 39, 33, 27, 21, 15 Eliza Place) and Lots 100 and 101 DP1201967 (No 1755 Remembrance Driveway and No 7 Eliza Place).

4. Sensitive development

- (a) Designated development.
- (b) Development to which [State Environmental Planning Policy \(Housing\) 2021, Chapter 4 \(Design of residential apartment development\)](#) applies.
- (c) Development involving the demolition of a heritage item.
- (d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
 - (i) a club licence under the [Registered Clubs Act 1976](#),
 - (ii) a hotel (general bar) licence under the [Liquor Act 2007](#), or

(iii) an on-premises licence for public entertainment venues under the [Liquor Act 2007](#).

(e) Development for the purpose of sex services premises and restricted premises.

(f) Development applications for which the developer has offered to enter into a planning agreement.

LOCAL PLANNING PANEL CHARTER AND CODE OF MEETING PROCEDURE

In addition to the above criteria, applications that meet the following can be referred to the Panel for determination under Council's Local Planning Panel Charter and Code of Meeting Procedure

3.1 (vi) Any other development application, application to modify a consent or application to review a determination on a development application or application to modify a consent, at the discretion of the General Manager (Chief Executive Officer) or their delegate.

Further information on the statutory rules for local planning panels can be found on DPHI's [website](#).

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