

POLICY TITLE:

DEVELOPMENT ASSESSMENT POLICY

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29

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New Policy

OBJECTIVES

Liverpool Plains Shire Council aims to deliver a consistent and transparent development application service within reasonable timeframes, based on the provisions contained within Part 4 of the *Environmental Planning and Assessment Act 1979*.

Liverpool Plains Shire Council assesses development applications based on their merit having regard to the provisions of the *Environmental Planning and Assessment Act 1979*, the *Liverpool Plains Local Environmental Plan 2011*, the *Liverpool Plains Development Control Plan 2012* and other relevant environmental planning instruments.

The objectives of this policy are:

- (a) to support continuous improvement of the delivery of the development assessment service to all customers involved in the development application and development certification process;
- (b) to encourage effectiveness and efficiency in assessment and decision making processes;
- (c) to increase the focus of stakeholders and professional staff resources on achieving quality of outcomes as well as reduced assessment times;
- (d) to increase the level of partnership between Council and proponents in managing an effective and efficient development assessment and decision-making process;
- (e) to outline Council's policy regarding the management of conflict of interest matters within the development assessment framework.

POLICY STATEMENT**1. PRINCIPLES****Pre-Lodgement**

Delivery of a consistent development application service within reasonable timeframes is only possible when applicants furnish appropriate information within requested timeframes so that an informed, proper and timely assessment can be made of the application.

(a) Services Associated with Development Assessment

- (i) Conducting development industry information seminars, about the development application and assessment process.
- (ii) Providing guidelines and checklists for applicants to complete before lodging an application. Staff may not accept an application if it is inadequate or not supported by the appropriate fees.
- (iii) Providing an assessment officer between the hours of 9.00am and 12 noon each business day in order to assist the public with planning and pre-lodgement enquiries.
- (iv) Providing a Pre-DA assessment service to provide applicants with general written advice regarding compliance (or otherwise) with local development standards and advice on improvements on a range of site specific matters including, but not limited to, design issues, landscaping and parking.

All applicants are encouraged to utilise this service as it enables proponents to discuss development concepts with Council's Planning & Development staff, and other professional and technical staff to obtain some guidance as to the key issues likely to affect the development.

Basic concept plans are required to be provided with enquiries for pre-lodgement advice. Pre-DA enquiries are available by prior appointment.

Written advice will be provided after the Pre-DA appointment.

- (v) Ensuring the *Liverpool Plains Local Environmental Plan 2011* and *Development Control Plan 2012* are available from Council's website, free of charge and Administration Office are available, with a printing charge.
- (vi) Providing information on Council's website regarding the development assessment process.
- (vii) Providing brochures and guidelines (fact sheets) free of charge available from Council's website and Administration Centre.
- (viii) Provision of pre-lodgement quotations on application assessment fees, calculated in accordance with Council's adopted Fees and Charges Policy, Management Plan, as prescribed under the *Local Government Act 1993*, *Environmental Planning and Assessment Regulation 2000* and other any cognate legislation as relevant/applicable at the time of making of the development application or complying development certificate.

(b) Adequacy of Information

Applications will be reviewed for adequacy before the application is lodged. A further check will be undertaken within seven (7) days of the application being lodged, after a preliminary assessment has been undertaken.

Where the application is unclear, illegible or fails to provide required information, the application will be rejected pursuant to the provisions of clause 51 of the *Environmental Planning and Assessment Regulation 2000*.

An application that has been rejected is taken to have never been made and all documentation submitted to Council and a full refund of application fees will be returned to the applicant.

(c) Electronic Submission of Development Applications

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**Foreshadowing the need to acquire this technology at the earliest opportunity*

Requests for Amendments to Proposal**(a) Requests for Further Information**

If the application is not rejected, Council may still request that additional information, or, amendments to the proposal, be provided.

Clause 54 of the *Environmental Planning and Assessment Regulation 2000* authorises the Council to request additional information about the proposed development to allow for proper consideration of the application. Council will require that additional information be provided with fourteen (14) days.

Council will apply 'stop the clock' provisions where appropriate until:

- All necessary information is received, or
- The application notifies Council the information will not be provided; or
- The application is determined.

If the requested information has not been received at Council within twenty eight (28) days of the original letter, the development application will be determined on the information available, and may be formally refused, unless an extension of time has been granted.

Generally, no further requests for information or amendments to the proposal will be made, however, a reminder advice will generally be issued at the expiration of a fourteen (14) day period from the date of issue of the original letter.

Applications which are withdrawn within the 28 day period shall be provided with a majority refund of the development assessment fee. The amount refunded will be based on extent of assessment undertaken by Council at the time of withdrawal.

Council will only agree to a further extension of time only if it is satisfied that genuine extenuating circumstances have prevented the provision of additional information. For this to occur, the applicant is required to submit in writing their reasons for seeking a further extension and stipulate a possible timeframe. Under those circumstances the applicant may be provided with a further extension of time. The extension of time will be considered by a senior staff member. Should the additional information not be provided after the expiry of that period, the application will then be determined on the information available and the corresponding merits of the proposal.

Internal Referral of Development Applications

Development applications will often require referral to other Departments within Council, or to recognised and endorsed contractors and consultants, seeking expert input and technical guidance. Such circumstances will generally include, but not be limited to, the following:

Heritage Advisor

- (a) Where the property is listed as a heritage item; and
- (b) Where the site is located within a heritage conservation area and the proposed works are likely to be visible from the street, or, are likely to substantially affect the character of the building.

Works – Stormwater, Development Engineering, Water, Sewer & Traffic

- (a) Where the site is identified as being flood liable;
- (b) Where the property slopes away from street frontages;
- (c) Where a proposal is likely to block or divert natural surface flows (eg where extending a building to the boundary);
- (d) Where a development required on-site detention;
- (e) Where the development type requires water treatment measures;
- (f) Where a proposal seeks to develop in proximity to the public drainage system;
- (g) Where new off-street parking facilities are proposed, or, existing off-street parking facilities are proposed to be modified;
- (h) Where the subject site has retaining walls at the street boundary (either existing or proposed);
- (i) Where the subject site has a street awning or balcony (either existing or proposed);
- (j) All residential, commercial and industrial developments that seek to vary Council's traffic and parking controls or conditions (ie loading zones and parking restrictions). These applications may also be referred for consideration of the Local Traffic Committee; and
- (k) Applications where the traffic generation and/or parking demand created by the proposal may adversely impact on the surrounding street network(s).

Environmental Health

- (a) Applications relating to the sale and preparation of food;
- (b) Applications relating to all public health premises such as skin penetration, brothels, mortuaries, massage parlours, hairdressers and barbers, beauty salons, child care centres, places of shared accommodation, boarding houses and licensed premises;
- (c) Applications that propose the installation of a new regulated system such as cooling towers;
- (d) Where the subject or adjoining sites are potentially contaminated having regard to criteria established under the *State Environmental Planning Policy No. 55 – Remediation of Land*.

- (e) Applications where acoustic reports have been submitted for assessment.

Note: For all other applications an initial evaluation is to be carried out in order to determine if the proposal is likely to create an adverse noise impact to adjoining residential properties. If adjoining residential properties are likely to be impacted by noise, then the application shall be referred until the receipt of an acoustic report.

Building Surveyor

- (a) Applications for Class 2-9 buildings under the Building Code of Australia, including changes of use; and
- (b) Applications for Class 1 & 10 under the Building Code of Australia, where non-compliance with the BCA is likely to result in significant design changes to the proposal that could not be dealt with at the Construction Certificate stage, or, where further advice as to the practicality of the construction of the development is required.

Corporate Services – Property & Risk Management

- (a) Any application where works may impact on the use of Council land. This may include balconies and awnings over public footpaths, and proposals where direct access to public land (with the exception of public roads) is sought, or, where the subject site is adjacent to a park, Council-owned car park or other Council owned or managed site.

Economic Development & Community Services

- (a) Applications that require a social and/or economic impact assessment;
- (b) Applications seeking consent for childcare centres, or, modifications to an existing child care centre.

Compliance – On-Site Sewage Management Systems

- (a) Applications that entail the operation of an onsite sewage management system or where the subject site cannot be practicably connected to sewer.

A variance to the above principles may be required in some circumstances. Such discretion may be applied by senior Council staff and is based on the specific nature of the subject application.

All referrals should be returned within fourteen (14) days, or, ten (10) days in the instance of an amended proposal which has been previously referred. These timeframes may be extended in the instance of larger or more complex applications.

Development Assessment Panel

A panel of Council officers will consider each development application where an internal referral has been issued. This panel will typically meet on a fortnightly basis and comprise the assessment officer, Manager - Planning & Development, and any other appropriate internal technical specialists.

The panel will determine whether the proposal is satisfactory, and if so, what type of conditions may be imposed; if amendments are required; or, if the application should be withdrawn.

The minutes of this meeting will be affixed to the corresponding development application file.

External Referrals

In some circumstances an application may require referral for comment or concurrence from another approval body. Such referrals will be issued in accordance with the requirements under:

- Section 91 of the *Environmental Planning and Assessment Act 1979* ('Integrated Development');
- *State Environmental Planning Policy (Infrastructure) 2007*; and
- Any other relevant legislation.

Applications for new or extended licensed premises and proposals covered by "Safer by Design" principles will also be generally referred to the NSW Police Service for comment.

Notifications

Public notification for all applications shall be in accordance with the *Liverpool Plains Development Control Plan 2012*. Notification will typically commence within the first seven (7) days of lodgement of the application.

Reporting & Delegations**(a) Approval or Refusal under 'Delegated Authority'**

Applications which do not receive submissions opposing the proposal may be approved by Council officers, in accordance with individual staff written delegations which are endorsed by the General Manager and reviewed annually.

An assessment report and detailed checklist will be prepared for all applications, in accordance with accepted and recognised industry best practice guidelines (including but not limited to assessment manuals, practice notes and guidelines as prepared by the NSW Department of Planning & Infrastructure), which must be peer reviewed by an appropriately qualified and experienced professional officer prior to determination.

Assessment timeframes should not exceed the period prescribed under the *Environmental Planning and Assessment Act 1979* and corresponding *Regulation 2000*.

(b) Approval or Refusal by Council Meeting

Applications which exceed staff delegation, will be determined by the elected Councillors at an Environmental Services Committee Meeting and Ordinary Monthly Council meetings. A detailed assessment report will be prepared which will be reviewed by Council's Director – Environmental Services. The Environmental Services Committee and Ordinary Council Meeting agendas are finalised six (6) days prior to the scheduled meeting dates. Copies of the assessment reports are available on Council's website.

Correspondence will be issued to the applicant and submitters advising of the date of the meeting(s) where the application will be considered.

Councillors may also request that particular applications are considered at Environmental Services Committee and Council Meetings.

(c) Joint Regional Planning Panel

The *State Environmental Planning Policy (Major Development) 2005* outlines development which is required to be determined by the Joint Regional Planning Panel (JRPP).

An assessment report will be prepared for the proposal, and will be peer reviewed by Senior Council Staff prior to forwarding to the Panel for determination.

Correspondence will be issued to the applicant and submitters by the Panel Secretariat advising of the date of the meeting where the application will be considered.

Further information regarding Joint Regional Planning Panels may be found at www.jrpp.nsw.gov.au.

Post-Determination Notification

The applicant and submitters will be advised of the determination of an application within fourteen (14) days of that decision.

2. MANAGEMENT OF CONFLICTS OF INTEREST IN THE DEVELOPMENT ASSESSMENT PROCESS

The Council's *Code of Conduct Policy* is an overarching Policy which guides how Council staff, delegates, contractors and consultants are to manage and address actual or potential conflicts of interest. Councillors are separately governed through the provisions of the *Local Government Act 1993* and Council Policy No. 1.1 - *The Code of Meeting Practice*.

Council supports an open, transparent and accountable public administration with a commitment to ethical decision making. Council acknowledges that for effective governance and appropriate development assessment decision making processes, full disclosure of actual or perceived conflicts of interest is required. Accordingly, it is important that all conflicts of interest are disclosed promptly and comprehensively so as to prevent bias in decision making and also to remove the appearance of bias in decision making.

This part of the policy applies to all Council staff, delegates, contractors and consultants, members of Council Committees and members of the community interacting with Council.

2.1 Implementation and Access

- Council maintains a conflict of interest register to record and manage conflicts of interest as disclosed by Council staff, contractors and consultants.
- The Corporate Services Director is the responsible Council officer for the conflict of interest register.
- For all declared conflict of interest, a record is kept regarding the decision made in managing the conflict eg that the person no longer have any involvement in the matter.
- Council regularly undertakes a program of educating staff regarding probity and corruption prevention and promoting the need to manage conflicts of interest.

- Prescribed designated persons and development assessment staff must complete and lodge general disclosure of interest returns and are legally obliged to disclose in writing to the General Manager the nature of any pecuniary interest in any specific Council matter in which they are dealing.
- Other persons who interact or have dealings with Council which may impact on the assessment process must disclose any conflicts of interest as they arise.

2.2 Development Applications and Complying Development Certificates by Senior Staff Members or Councillors

- Development applications submitted by any staff member or Councillor required to complete pecuniary interest returns, are to be referred to Council for determination.