

COUNCIL POLICY

Reference Number	76440
Responsible Business Unit	Planning
Responsible Officer	General Manager Sustainable Communities
Legislation	Development Act 1993
Relevant Delegations	As set out below
Related Policies Management Guidelines Frameworks	Nil
Link to Strategic Plan	Objective 4.1 - Provide effective and accountable leadership and teamwork throughout the organisation
Council resolution	217.8
Date Adopted	10 December 2018
Review Date	During a Council term
Previous Revisions	10 August 2015, item 200.1

POLICY STATEMENT

It is recognised that pursuant to the legislative requirement under the Development Act 1993 Section 34(23) and for efficient operation the powers for effective decision making must be delegated to the personnel actively involved in day-to-day operations or the Council Assessment Panel. This allows for the Council members to place greater emphasis on determining the overall directions and policies of the organisation and on monitoring performance. This philosophy underlies the issuing of delegations generally of the Council of the Rural City of Murray Bridge.

In the case of development assessment, there are many applications which are "complying" in nature and must be granted planning consent within limited timeframes as prescribed in the Development Regulations 2008, while there are others which are simple. Thus the majority of development applications are managed and determined by authorised Council officers under delegation except for those applications where officers decline to use their delegated powers and instead refer them to Council's Assessment Panel for determination.

More complex development matters and those involving public notification issues where applicants/respondents wish to be heard are dealt with by Council's Assessment Panel. Delegations to the administration are made to the Chief Executive Officer who is empowered to sub-delegate these, unless specifically prohibited from doing so by legislation. In accordance with Section 34(26) of the Act all staff who exercise delegated powers are responsible to the Chief Executive Officer for the exercise of these powers.

It is also recognised that certain principles must be enacted to ensure the effective operation of a Council's delegations.

These are:

- The use of delegations involves a two way process involving CAP members and staff providing feedback on the operation of the delegations.
- There is to be sufficient and thorough consultation between Council's staff, those likely to be affected by the decision, and where warranted, with the CAP.
- If a decision is likely to create a considerable level of local or community interest and/or is sensitive; the matter would be referred back to CAP either directly or via the Development Assessment Unit (DAU) process in consultation with the Presiding Member.

- The Council's staff must keep an adequate record of the circumstances leading to the use of the delegated powers and of the decision made, the extent of recording to have regard to the relative importance of the decision. Quarterly reports will be tabled at CAP.
- In areas of complexity, or in a highly technical situation, consideration should be given to the need to obtain other specialist input or views.

OBJECTIVES

To provide a transparent and consistent approach to the use of delegations as required under Section 34 of the Development Act. The purpose of this policy is to outline the basis upon which Council will delegate its powers and duties, under the *Development Act 1993*, as a relevant authority with respect to determining whether or not to grant Development Plan Consent. This policy also meets Council's obligations under the Development Act for Council to adopt such a policy.

SCOPE

All applications received by the Council under the Development Act, for Development Plan Consent, where it is deemed to be the '*relevant authority*' as set out in S.34 of the Act.

PRINCIPLES

The basis upon which Council makes the various delegations required by Section 34(23) of the Development Act 1993 is that:

- a large proportion of residential development and small scale non-residential development is "complying" in nature and must be granted planning consent within limited timeframes as prescribed in the Development Regulations 1993. Thus the majority of development applications are managed and determined by authorised Council officers under delegation except for those applications where officers decline to use their delegated powers and instead refer them to Council's Assessment Panel for determination;
- more complex development matters and those involving public notification issues are dealt with by Council's Assessment Panel.

Delegations

Council has made appropriate delegations to its Council Assessment Panel (CAP) and to its staff in accordance with the above categorisations, and in some instances the nature of the development (e.g. non-complying). These delegations are outlined below.

Council Officers

In order to assess development applications in a timely and efficient manner, to assist staff with meeting the statutory timelines for assessing applications under the Act, relevant Council delegated Council officers may assess and approve the following types of development applications:

- Complying Category 1;
- Category 2, 2A and 3 applications, where no representations have been received opposing the application as part of the public notification process, or where all objections raised by representors have been resolved.
- Minor non-complying development where CEO believes determination is not warranted by DAP

Council staff may refuse non-complying applications without proceeding to make an assessment of the application, in accordance with Section 39(4)(d) of the Act.

Any development application (including those that have been recommended for refusal and those that constitute a compromised proposal from the Environment, Resources and Development Court) may be referred to the RDAP at the discretion of the assessing Council officer.

Council Assessment Panel

The CAP will determine whether or not to grant development approval on behalf of Council, after staff have provided a report to CAP, with respect to the following types of applications:

- Category 2, 2A and 3 development applications where representations have been received as part of the public notification process and objections raised by representors have not been resolved.
- Applications that involve non-complying development that is not of a minor nature (applicants do not have any right of appeal should the application be refused);
- Applications that are complex or controversial in nature;
- Applications that are of significant social, economic or environmental interest, but that would otherwise be dealt with under delegation by Council officers. These applications may, at the discretion of the Chief Executive Officer, be referred to the CAP for a decision and may include recommendations to refuse to proceed to assess an application.

IMPLEMENTATION

This policy will be implemented by the Chief Executive Officer and managed in accordance with Council's scheme of delegations.

DEFINITIONS

DAP – Council Assessment Panel as constituted under S.56A of the Development Act 1993

Public notification categories are as per S.32 of the Development Regulations and in summary mean:

- Category 1 development – public notification not required
- Category 2 development – limited public notification is required
- Category 3 development – full public notification required