

Name of policy:	Determination of Applications and Approvals		
Adoption by Council:	25 October 2023	Minute number:	447/2023
Last review date:	August 2023		
Review timeframe:	4 years		
Next scheduled review date:	August 2027		
Related legislation:	<ol style="list-style-type: none"> 1. Environmental Planning & Assessment Act 1979 2. Environmental Planning & Assessment Regulation 2021 3. Local Government Act 1993 		
Associated policies/documents:			
Responsible division:	Liveable Communities		

Policy objective

- To provide guidelines for the determination of Development Applications and other approvals for development activity.
- To enable all applications to be determined promptly in an efficient and effective manner.
- To ensure that the level of decision making reflects the nature of the DA.
- To ensure decision making upholds the integrity of the planning system.

Policy statement

To meet 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 a role in the assessment and determination of 'significant/controversial' applications.

In order to achieve this goal, development assessment delegations should be maximised and standardised to ensure a consistent and efficient decision making process.

Coverage of the policy

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

Strategic Plan link

MidCoast Community Strategic Plan 2022-2032

Community Outcome 2: An integrated and considered approach to managing our natural and built environments.

<p>Strategic Objective 2.5</p> <p>We balance the needs of our natural and built environment.</p>	<p>Strategy 2.5.1</p> <p>Practice integrated land use planning that balances the environmental, social and economic needs of present and future generations and our existing natural, heritage and cultural assets</p>
<p>Strategic Objective 2.6</p> <p>We have a diverse range of housing options</p>	<p>Strategy 2.6.1</p> <p>Plan and advocate for a range of housing options to meet the diverse needs of our community</p>

Policy content

General

Under s377 of the Local Government Act 1993 Council may delegate any function of Council (other than the items listed in the Act) to the General Manager. The assessment and determination of Development Applications and other forms of approval are functions that may be delegated.

Under s378 of the Local Government Act 1993 the General Manager may in turn sub-delegate a function delegated to the General Manager by the Council to any other person (including another employee of Council).

The exercise of these delegations should be applied consistently to ensure the determination process is both transparent and efficient. To achieve this balance, the following applications should be referred to Council for determination with staff determining all other applications:

1. Where there are more than ten objections by way of individual submissions from different households (note that a petition or pro-forma documents are counted as one objection).
2. A proposal involving a variation of more than 10% to any numerical development standard in an environmental planning instrument or a variation to any non-numerical development standard in an environmental planning instrument.
3. A proposal involving a variation to any of Council’s Contribution Plans.
4. A proposal involving a variation to an adopted Council policy or Development Control Plan that does not demonstrate an alternative solution to meeting the policy or plan objectives, unless, in the assessment officer’s opinion, compliance with the policy or plan is unreasonable and unnecessary in the circumstances.
5. The proposal involves a significant environmental, economic or social impact on the local community.
6. Where the application is for a review of determination and the development is a matter that otherwise would have been reported to Council.
7. Notification in writing has been received by at least three Councillors that the DA is required to be submitted to the elected Council for determination. Any such notification

must include reasons or a policy position for why the application requires reporting to the Council for determination.

8. Applications where Councillors or Senior Council Staff are either applicants, owners or have an interest in the development.
9. Applications where Council is proposing a development itself (and Council is the consent authority).

Staff Determinations:

Determinations made under delegated authority should generally (unless part of a fast track system or involving a minor variation, in relation to a single dwelling or development ancillary to a single dwelling) include a prior review of the assessment report, recommendation and draft determination by an equal or more senior officer.

Requests for further information or amendments to plans should have been addressed during the assessment stage and these requests should be avoided immediately prior to determination.

Where applications have unresolved issues or concerns with no immediate view of resolution, applicants will be requested to withdraw the application and be advised that if the application is not withdrawn a decision will be made on the information available at that time which will more than likely result in refusal.

Council Determinations:

Prior to the Council meeting at which a matter is to be determined, an assessment report, recommendation and draft determination should be reviewed by a senior officer or manager.

Assessment material including an assessment report, recommendation, draft determination, architectural plans and supporting information should be made available to all Councillors and be publicised on Council's website as part of a business paper a minimum of five days prior to the meeting.

Definitions

Definitions for terms used in this policy should generally be sought from the related legislation identified above.

Senior Council Staff – means the General Manager, Directors and all Managers

Minor Variation – means where in the opinion of the assessment officer for the application;

- the objectives of the DCP will be achieved; **and**
- variations can be justified given the constraints of the site (i.e. steep topography, easements, vegetation); or
- similar variations exist in the locality i.e. infill development; or
- the variation would be permissible in the event the proposal was permissible under State Environmental Planning Policy - Exempt and Complying Development Codes 2008

References and related documents

NSW Development Assessment Best Practice Guide - To assist Councils to improve delivery timeframes

NSW ICAC Development Assessment Internal Audit Tool

Responsible officer (position)

Director Liveable Communities

Attachments

Nil