

# Development Assessment Delegation Policy

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Record number	D17/43373
Responsible Manager	Manager City Development
Other key internal stakeholders	Director Community and Cultural Development
Last reviewed	12 September 2017
Adoption reference	Council
Resolution number	864
Previous review dates	22/9/15, 11/02/14, 12/06/12, 11/08/09
Legal requirement	Section 34(27) of the Development Act 1993 requires Council to establish a policy
Due date next review	2020

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## PURPOSE

The purpose of this policy is to outline the basis upon which Council will delegate its powers and duties, under the Development Act 1993 and the Planning, Development and Infrastructure Act 2016 as a relevant authority with respect to determining whether or not to grant development plan approval. This policy also meets Council's obligations under the Development Act 1993 for Council to adopt such a policy.

This policy also establishes what types of matters will be referred to Council's Assessment Panel and what development applications Council officers can approve under delegation.

It is understood that this Council policy will be replaced by Regulations at some time in the foreseeable future when delegations provided by the Planning, Development and Infrastructure Act, 2016 are established.

## POLICY

Section 33(1) of the Act states that a planning application may only be approved, if first assessed against the relevant provisions of Council's Development Plan. The delegation relating to section 33(1) of the Act is all encompassing, enabling the delegated officer or the CAP to process and approve or refuse any planning application. In accordance with section 34(23) of Act, this delegation has been granted to the CAP and all planning officers.

This policy provides the guiding principles on how the delegations to approve or refuse a planning application may be exercised by the CAP or a Council employee.

## Delegations

A decision to approve or refuse an application for development plan consent will be made by a council officer under delegated authority, or by the CAP. The delegation principles contained within this policy have been established having regard to the following factors:

- The nature and category of development
- Whether an application is for a complying or Non-Complying Development
- Whether or not the application received objections from members of the public
- Complexity of the application
- The level of public interest in the application
- The relevant authority (i.e. application referred to Council from the State Planning Commission)
- Whether or not the application has been submitted by Council and/or relates to Council land or facilities
- The cost of a development which is the subject of a Government grant.

## Council Officers

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

- All Complying Development applications, noting that restricted timeframes for the assessment of Complying Development applications inhibits the ability for the CAP to consider such applications
- All other Category 1 Development applications which, in the opinion of the Council officer, sufficiently satisfies the provisions of Council's Development Plan so as to warrant consent
- Category 2, 2A and 3 Development 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 and the representation(s) have been officially withdrawn
- Minor Non-Complying Development
- Minor Development Applications referred to the Council by Development Assessment Council in accordance with section 49(4a) of the Act.

Council Officers 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 compromise proposal from the ERD Court) may be referred to the CAP 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 Council Officers have provided a report to CAP in a form that CAP have previously approved, with respect to the following types of applications:

- Category 2, 2A and 3 Development applications where representation(s) 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 in the opinion of the team leader or a senior planner
- 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 team leader or a senior planner, be referred to the CAP for a decision, and may include recommendations to refuse to proceed to assess an application
- Any development application by the City of Tea Tree Gully (excluding significant tree applications) where the development costs are equal to or greater than \$50,000, unless it is related to a government grant and there are time constraints which do not allow sufficient time for CAP to consider the application; or the application involves a variation to a previously approved application and the variations are unlikely to unreasonably impact on the owner or occupier of local residents within the locality

- Any Regulated or Significant Tree application submitted by the City of Tea Tree Gully, where removal of the Regulated or Significant Tree cannot be justified on amenity grounds, as determined by an appropriately qualified person.

## Council

Council will be responsible for providing comment to the State Planning Commission on applications submitted to Council pursuant to section 49 of the Act that are of significant social, economic, environmental or political interest as determined by the Team Leader Planning, Manager City Development or the CEO.

Subject to the conditions referred to within Attachment 1 of the Land Division Infrastructure and Open Space Management Policy, Council will be responsible for making decisions on the following matters in relation to development applications:

- A decision to gift land to Council through the development application process
- A decision to allow the installation of service infrastructure through an existing Council reserve
- A proposal to create public open space as part of a plan of division
- A decision to pay into the Council open space fund or to provide a combination of open space and provide money as permitted under section 50(1)(e) of the Act.

## LEGISLATIVE FRAMEWORK

The following legislation applies to this policy:

### [Planning, Development and Infrastructure Act 2016](#)

- Council Assessment Panel
  - Section 83 of this Act requires Council to establish a Council Assessment Panel (CAP) to undertake development assessment functions in its behalf.
  - CAP will be able to exercise powers and functions delegated to them by Council to determine development applications under the *Development Act*. All development applications will continue to be lodged and assessed under the *Development Act* for the time being.
- Assessment manager
  - Section 87 of this Act requires the CEO of Council to appoint an Assessment Manager. The role of the Assessment Manager under this Act is, for the time being, limited to assisting the CAP and ensuring that it is adequately resourced.
  - The role of the Assessment Manager will eventually expand to include that of a relevant authority for development applications under this Act.

### [Development Act, 1993](#)

Section 34(23) of this Act requires Council to delegate all of its powers and duties to make decisions on whether or not to grant development plan consent to either its Development Assessment Panel or relevant employees. This delegation is made pursuant to section 20 of this Act.

Although a decision on whether to issue development plan consent must be subdelegated, such decisions do not extend to land division assessments performed under section 33(1)(c) of the Act. Such decisions (amongst other things) relate to the vesting of infrastructure and open space in Council.

Section 34(27) of the Act requires Council to establish a policy in relation to the basis of its delegations under section 34(23) of this Act. This policy satisfies that specific requirement.

Section 49 of this Act refers to planning decisions made by the State Planning Commission in circumstances where a:

- State agency proposes to undertake development (other than in partnership or joint venture with a person or body that is not a State agency); or
- State agency proposes to undertake development for the purposes of the provision of public infrastructure (whether or not in partnership or joint venture with a person or body that is not a State agency); or
- Person proposes to undertake development initiated or supported by a State agency for the purposes of the provision of public infrastructure, which is specifically endorsed by the State agency.

In such instances, the application must be referred to the relevant Council for comment.

## Other references

Council’s document including:

- [Council’s Fees and Charges Register](#)
- [Land Division Infrastructure and Open Space Management Policy](#)
  - The Land Division Infrastructure and Open Space Management Policy provides guidance in relation to the provision of infrastructure and open space for new development applications. Attachment 1 to the Land Division Infrastructure and Open Space Management Policy, details those instances when decisions can be made by a Council delegate or an employee acting under delegated authority. This Policy should be read in conjunction with the Land Division Infrastructure and Open Space Management Policy for decisions regarding the provision of infrastructure and open space for new developments.

## STRATEGIC PLAN/POLICY

### Strategic Plan

Theme	Objective	Comments
VIBRANT AND LIVEABLE	<i>A city that is made up of places and spaces that are appealing and easy to access.</i>	Our city is a desirable and sustainable place to live.
	<i>A community with a diverse range of housing to suit a variety of needs, life stages and lifestyles.</i>	
	<i>A sustainable city that has a healthy natural environment and is resilient to climate change.</i>	
	<i>A place that expresses a unique character and identity, an area that inspires pride in its residents and one that people enjoy visiting.</i>	

## Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems, Continuous improvement

## DEFINITIONS

For the purposes of this policy the following definitions apply:

### Act

Development Act 1993

### PDI Act

Planning Development and Infrastructure Act 2016

### CAP

Council Assessment Panel

### CDAP

Council's Development Assessment Panel.

### Category 1 Development

Public notification not required.

### Category 2 Development

Limited public notification is required (i.e. owners of adjacent land).

### Category 2A Development

Limited public notification is required (i.e. owners of adjoining land).

### Category 3 Development

Full public notification required (subsequent appeal rights are provided)

### CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

### Complying Development

A form of development listed as "complying" within Council's Development Plan or Schedule 4 of the *Development Regulations 2008*.

### Council Officers

For the purpose of this Policy, this term refers to a Council delegate responsible for the assessment of planning applications, and includes planning consultants acting under delegated authority.

### ERD Court

Environment Resources and Development Court.

### Minor Development Applications

A development, which in the opinion of the assessing officer, is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.

### Non-Complying Development

A form of development listed as “non-complying” within Council’s Development Plan.

### Regulated Tree

According to the Development Act 1993, this means: -

- Trees within a designated area as prescribed within regulation 6A(3) and that have a trunk with a circumference of 2 metres or more or, in the case of trees with multiple trunks, that have trunks with a total circumference of 2 metres or more and an average circumference of 625 millimetres or more, measured at a point one(1) metre above natural ground level, but does not apply to those trees listed within regulation 6A(5) or the exemptions listed within Schedule 3 of the Development Regulations.

## POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council’s scheme of delegations.

## ACCESSIBILITY

This Policy and Council’s Fees and Charges Register are available to be downloaded free of charge from Council’s website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)

Hard copies, for a fee, can be provided in accordance with Council’s Fees and Charges Register at Council’s Civic Centre at 571 Montague Road, Modbury SA 5092.