

## Statutory Planning Applications – Referral to Council

<b>Department:</b> <i>Development Services</i>	<b>First Implemented:</b> 20 October 2015 <b>Effective From:</b> 18 February 2020 <b>Review Date:</b> 19 February 2022 <b>Version:</b> 03 <b>Trim Reference:</b> E522/E3328	<b>Origin:</b> Responsible Officer <i>Development Services Manager</i> Authorising Officer: <i>For endorsement by Council</i>
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### PURPOSE/OBJECTIVE

The purpose of this Policy is to outline appropriate processes for referring Development Plan applications and/or planning permit applications to the Council for determination.

Council, as a Responsible Authority, has powers under the *Planning and Environment Act 1987* to grant, refuse or amend applications for planning permits under the Mansfield Planning Scheme.

### POLICY STATEMENT

This Policy confirms Council endorsement that only planning applications with the following triggers will result in a report to Council:

- Where more than four (4) objections are received; and/or
  - Where the \$value of the application exceeds \$1m; and/or
  - Where the application is lodged by or on behalf of Council employees; and/or
  - Where the application is lodged by\* or on behalf of a sitting Councillor, except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant
  - Where officers recommend Refusal of an application, except where:
    - the use and or development proposed by an application is prohibited by the Mansfield Planning Scheme
    - the application is for an extension of time to a permit but the tests for assessing such applications (known as the Kantor Principles) have not been, or cannot be, met
    - Council has been directed to refuse an application by a determining authority
- or

Development Plan applications or applications to amend an approved Development Plan:

- Which proposes to develop land for eight (8) or more lots; and/or
- Where officers recommend Refusal of an application; and/or



- Where the application is lodged by or on behalf of Council employees; and/or
- Where the application is lodged by or on behalf of a sitting Councillor, except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant.

There may be examples where officers believe determination by Council is more appropriate, notwithstanding that the circumstances have not necessarily triggered the need for referral of the application to Council for determination and this will also enhance the transparency of decision making.

Council will retain its ability to 'call up' any application for determination and will be assisted in this regard by regular circulation of a list of newly lodged planning applications, together with the ability of Councillors to attend consultative meetings should they choose to do so.

A list of triggers for the referral of an Application to Council is attached to this Policy (appendix A).

## DEFINITIONS

**Trigger:** make cause to forward a Planning Application to the Council for determination.

## SCOPE

Delegation is an essential tool utilised by councils to ensure that decision making occurs in a timely fashion, while still allowing for direct involvement of the Council where matters of significant community interest or major policy implications are raised. Consistent with many other municipalities, Council has delegated the majority of its statutory planning powers under the *Planning and Environment Act 1987* to grant, refuse or amend applications for planning permits under the Mansfield Planning Scheme to Council officers.

## RESPONSIBILITIES

This policy applies to Council officers delegated under the *Planning and Environment Act 1987*.

Adherence to the 'Statutory Planning Applications – Referral to Council Policy' will be overseen by the Development Services Manager with any associated procedures implemented by the Development Services Manager.

Management and appropriate employees are to be familiar with, and competent in, the application of this Policy, and are accountable for the delivery of that policy within their areas of responsibility.

The Development Services Department (Statutory Planning unit) is the owner of this policy. Any reviews of this Policy must be made in consultation with the Development Services Manager.



## REFERENCES / RELATED POLICIES

- *Planning and Environment Act 1987*
- Mansfield Shire Council Instrument of Appointment and Authorisation – *Planning and Environment Act 1987* (Schedule 11A)
- Council reports dated 16 May 2017 and 18 February 2020 – ‘Statutory Planning Delegations – Referral of Planning Applications to a Council Meeting’.

## IMPLEMENTATION

This policy mirrors Council’s endorsement of its ‘Statutory Planning Delegations – Planning Application Types Requiring Determination by Council’ report, dated 16 May 2017, and is effective 16 May 2017.

## REVIEW DATE

This Policy is to be reviewed by 18 February 2022.

Council reserves the right to review, vary or revoke this Policy at any time.

## AUTHORISATION TO IMPLEMENT POLICY

Signed: \_\_\_\_\_  
Councillor

Witnessed: \_\_\_\_\_  
Chief Executive Officer

Approval dated:



## Appendix A

### TRIGGERS FOR THE REFERRAL OF A PLANNING APPLICATION TO COUNCIL FOR DETERMINATION

Type of application	'Trigger' for referral of the application to Council
<p><b>Development Plan applications triggered by a Development Plan Overlay (DPO) in the planning scheme OR applications to amend an approved Development Plan</b></p> <p><b>*Except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant</b></p>	<ul style="list-style-type: none"> <li>• Proposals to develop land for eight (8) or more lots; and/or</li> <li>• Where officers recommend Refusal of an application; and/or</li> <li>• Where the application is lodged by or on behalf of Council employees; and/or</li> <li>• Where the application is lodged by* or on behalf of a sitting Councillor</li> </ul>
<p><b>Planning Permit Applications</b></p> <p><b>*Except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant</b></p>	<ul style="list-style-type: none"> <li>• Where more than four (4) objections are received; and/or</li> <li>• Where the \$value of the application exceeds \$1m; and/or</li> <li>• Where the application is lodged by or on behalf of Council employees; and/or</li> <li>• Where the application is lodged by* or on behalf of a sitting Councillor</li> <li>• Where officers recommend Refusal of an application, except where:- <ul style="list-style-type: none"> <li>- the use and or development proposed by an application is prohibited by the Mansfield Planning Scheme</li> <li>- the application is for an extension of time to a permit but the tests for assessing such applications (known as the Kantor Principles) have not been, or cannot be, met</li> <li>- Council has been directed to refuse an application by a determining authority</li> </ul> </li> </ul>