

Development Delegations Policy



1. RATIONALE

- 1.1 Section 83 of the *Planning, Development and Infrastructure Act 2016* requires the Council to establish a Council Assessment Panel (the Panel) to undertake development assessment functions on its behalf.
- 1.2 Section 34(23) of the *Development Act 1993*, requires the Council to delegate its powers and functions as a relevant authority with respect to determining whether, or not, to grant development plan consent under the *Development Act 1993*, to the Panel and/or the Council's Administration.
- 1.3 This policy meets Council's obligations under Section 34(27) of the *Development Act 1993*, which requires Council to adopt a Development Delegations Policy.

2. POLICY STATEMENT

- 2.1 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 consent.
- 2.2 This policy establishes what applications will be determined by Council's Assessment Panel and what applications will be determined by the Council's Administration.

3. OBJECTIVES

- 3.1 Council actively supports the growth of the City through appropriate development that maintains and enhances the social, economic and environmental conditions desired by the community.
- 3.2 Council acknowledges that an effective and efficient development assessment system is critical to achievement of community and council goals.
- 3.3 The aim of the policy is to identify the basis upon which delegations are made under the *Development Act 1993*. It sets out the types of Development Applications that will be determined by the Council Assessment Panel.

4. POLICY SCOPE AND IMPLEMENTATION

- 4.1 The Panel will undertake the role of the relevant authority pursuant to Section 33 of the *Development Act 1993*, in relation to the following types of development applications:
 - 4.1.1 Non-complying applications – the Panel will decide to refuse the application or seek the concurrence of the State Commission Assessment Panel to approve the application, except for the following:
 - The decision to proceed with an assessment of a non-complying application pursuant to Regulation 17 (3)(b) of the *Development Regulations 2008*).
 - Non-complying applications deemed to be minor in accordance with

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Regulation 17 and Schedule 9 Part 1 (3) of the *Development Regulations 2008*.

- 4.1.2 Any 'merit' application that has undergone Category 2 or Category 3 public notification where at least one representor has expressed opposition to the proposed development and has expressed their desire to be heard by the Panel.
 - 4.1.3 Any application in relation to a Local Heritage Place or a State Heritage Place where the heritage advice commissioned by the Council or the State Government Department responsible for State Heritage have recommended that approval should not be granted.
 - 4.1.4 Any application for the total demolition of a Local Heritage Place or a State Heritage Place.
 - 4.1.5 Any application for land division that proposes the creation of three or more additional allotments (excluding an allotment identified as common property or as a free an unrestricted right of way) where one or more of the proposed allotments is more than 5% below the minimum site area recommended by the relevant Policy Area of the Development Plan.
 - 4.1.6 Any application for three or more dwellings (including detached, semi-detached, row and residential flat) where one or more dwelling sites are more than 5% below the minimum site area recommended by the relevant Policy Area of the Development Plan.
 - 4.1.7 Any application involving development by the Council where the Minister has declined a request by the Council that the Development Assessment Commission be appointed as the relevant authority.
 - 4.1.8 Any application where an appeal has been made to the Environment, Resources and Development Court, and the General Manager City Development has referred to the Panel a proposed compromise made by the appellant.
 - 4.1.9 Any application where the Manager Development and Regulatory Services determines that the application warrants assessment by the Panel due to its significant, contentious, or controversial nature.
- 4.2 All development applications other than applications set out in Section 4.1 of this Policy will be determined by the Administration.

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5. DEFINITIONS

| <i>Term</i> | <i>Definition</i> |
|--|---|
| <i>Council Assessment Panel or 'the Panel'</i> | Council Assessment Panel (CAP) established pursuant to the <i>Planning, Development and Infrastructure Act 2016</i> . The CAP has a total of five members, of which four are Independent Members and one an Elected Member of Council. |
| <i>Planning, Development and Infrastructure Act 2016</i> | <i>Planning, Development and Infrastructure Act 2016</i> (PDI Act) is the planning legislation which governs planning assessment, planning policy, compliance and other elements such as infrastructure planning, implementation and funding. |
| <i>Development Act 1993</i> | Previous planning Act, which until revoked by the PDI Act 2016, was the planning and development scheme controlling development within the state. |
| <i>Development Application</i> | Formal application for development that requires consent. Usually consists of standard application forms, supporting technical reports and plans. |

6. ROLES AND RESPONSIBILITIES

| <i>Role</i> | <i>Responsibility</i> |
|--|---|
| <i>Panel Member</i> | Responsible for assessing the application against the relevant provisions of the Marion Council Development Plan and making a final determination. |
| <i>Assessing Officer</i> | Responsible for assessing the application against the relevant provisions of the Marion Council Development Plan and making a recommendation to the Panel. |
| <i>Development & Regulatory Services</i> | Department containing relevant staff delegated to undertake assessment of applications and make recommendations to the Panel. |
| <i>General Manager City Development</i> | Where an appeal has been made to the Environment, Resources and Development Court, the General Manager City Development is responsible for referring the appeal to the Panel and considering any such recommendation regarding the proposed compromise made by the appellant. |

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7. REFERENCES

City of Marion

- Schedule of Delegations and Sub-delegations

Other

- *Development Act 1993*
- *Development Regulations 2008*
- *Planning, Development, and Infrastructure Act 2016*

8. REVIEW AND EVALUATION

- 8.1 This policy will be reviewed annually in conjunction with Council's annual review of delegations required under Section 40 (6) of the *Local Government Act 1999*.