



MATTERS IN THE LAND & ENVIRONMENT COURT



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GOVERNANCE & PLANNING – OFFICE OF DIRECTOR GOVERNANCE & PLANNING

POLICY OBJECTIVES

To settle matters.

To inform Council in relation to the defence of appeals and other matters in the Land and Environment Court (LEC).

POLICY STATEMENT

Council will endeavour to settle a matter if concerns can be overcome by appropriate conditions. Generally, this will result in legal cost savings due to the shortening of the hearing.

Council may instruct the Chief Executive Officer on the conduct of an appeal where the LEC timetable permits.

Because of the timing of receipt of the parties' single expert reports, (usually fourteen days or so before the matter is listed for hearing), and the timetable for preparation of reports to Council, there may only be a limited number of matters where Council can be advised of the experts' opinions prior to the date fixed for the hearing of the appeal.

If Council has refused a development application and the evidence before the Court supports the approval of the application, there may be no opportunity for Council to consider whether to settle the matter by consent orders, or continue with the defence of the appeal.

The Chief Executive Officer has delegation in respect to litigious matters. If, in the course of the litigation the evidence supports settlement by consent orders, it is appropriate for the Chief Executive Officer to instruct Council's solicitors to endeavour to settle the matter. In particular, the Chief Executive Officer may instruct Council's solicitors to settle a matter after Council has resolved to continue litigation, when the Chief Executive Officer forms the opinion that settlement is supported by the evidence and the LEC timetable does not provide sufficient time for a report to be made to Council.

Council will consider regular reports as to the status of appeals. Reports to Council will include an assessment of the possible outcome and the actual and anticipated costs of the appeal.

PROCEDURE

The procedure (attached), being an administrative process, may be altered as necessary by the Chief Executive Officer.

(Min No 1206/1994 - 1 November 1994)

(Min No 554/1984 - 2 July 1985)

(Min No 179/1991 - 19 February 1991)

(Min No 1206/1994 - 1 November 1994)

(Min No 699/1996 - 24 September 1996 - Review of Policies)

(Min No 239/2000 – 24 October 2000 – Review of Policies)

(Min No 451/2005 - 24 May 2005 - Review of Policies)

(Min No 311/2009 - 5 May 2009 - Review of Policies)

(Min No 2013/388 - 16 July 2013 - Review of Policies)

ATTACHMENT - PROCEDURE

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A monthly report will be submitted to Council containing the following information: -

- a The status of matters before the Court.
- b Reports on Judgments made by the Court.
- c Recommendations concerning new appeals, in relation to the stated policy.
- d Costs

The report will be to the Ordinary Meeting of Council except where legal professional privilege requires the report to be submitted to the Confidential Committee of the Whole Council.

The Chief Executive Officer may submit late confidential items with respect to legal matters to each Ordinary or Review Committee meeting as required.