

ADDITIONAL ITEM



Item No: 1.6
Title: Mayoral (Administrator) Minute - Proposed policy for the determination of development applications subject of significant public submissions
Department: Administrator

27 July 2016 Ordinary Council Meeting

D12414552

Purpose:

To propose that Council engage in public consultation for not less than 28 days concerning a proposed Policy for the determination of development applications that are the subject of significant public submissions, and request a report on that public consultation to a meeting in September 2016.

Recommendation:

- 1 That Council note this Minute.**
- 2 That Council request that the proposed "Policy for the determination of development applications subject of significant public submissions" that is attachment 1 to this Minute be the subject of public consultation, such public consultation to include the publication of a public notice, the public exhibition of the proposed Policy for not less than 28 days, and for the public to be invited to make submissions concerning the proposed policy during the period of exhibition.**
- 3 That Council request that the Chief Executive Officer provide a report to a Council meeting in September 2016 on the outcome of the public consultation set out in resolution 2 above.**

Information:

Members of the community have approached me seeking clarification on when development applications will be determined by me (as the governing body of Council), and when development applications might be determined by Council staff under delegation. The request for clarity is entirely appropriate, as the two former Councils had different approaches to that issue. I want to ensure that there is a clear and transparent policy governing when development applications must come to the governing body of Council.

I am proposing that a modification of the policy of the former Wyong Council be adopted, which will:

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- Require that all development applications that are the subject of more than 100 public submissions (not including petitions) are to be reported to a Council meeting for consideration and determination, unless the application is recommended for refusal or unless sufficient changes have been made to the proposal to adequately address issues raised by the community.
- Development applications that are the subject of less than 100 submissions (excluding petitions) can be determined by the CEO or Group Leader of Environment and Planning, under delegated authority.
- At any time the governing body (currently me) can request that particular development applications be reported to a Council meeting for consideration and determination. I can say that I would exercise that discretion carefully, as I am keen to ensure that Council staff are given the freedom and delegation they need to do their job in the best interests of the community.

There will always be transparency in all determinations of development applications by Council, whether under delegation or otherwise. The *Environmental Planning and Assessment Act 1979* requires that all development applications, whether determined by the governing body of the Council or under delegation, be carefully considered, and amongst other things prescribes that the matters that must be considered include submissions received by Council. Public consultation is requirement under that Act. Those who make a submission to Council about a development application will be advised of Council's determination, whether the decision is made under delegated authority or otherwise. Council values and encourages community input in development decisions, and the views of the community are always a relevant and important consideration.

I am not proposing to adopt the draft policy at this meeting, but suggesting that the draft policy be subject to public consultation for at least 28 days. This is not a *fait accompli* - I am genuinely interested to hear what the community has to say about the draft policy. A report will come to a meeting in September 2016, when a decision will be made as to the policy to be adopted.

This is a minute given pursuant to cl. 243 of the *Local Government (General) Regulation 2005*.

Ian Reynolds
Administrator
Central Coast Council
27 July 2016

Attachments

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| 1 Draft - Policy for Determining Development Applications Subject to Significant Public Objection | D12414643 |
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POLICY NO: XXXX

POLICY FOR DETERMINING DEVELOPMENT APPLICATIONS SUBJECT OF SIGNIFICANT PUBLIC OBJECTION

AUTHORITY	NAME & TITLE

AUTHOR	
MANAGER	
GROUP LEADER	Scott Cox Group Leader, Environment and Planning
CHIEF EXECUTIVE OFFICER	Rob Noble

CERTIFIED A TRUE COPY OF POLICY ADOPTED BY COUNCIL

AUTHOR SIGNATURE	
COUNCIL RESOLUTION DATE	

History of Revisions:

Version	Date	TRIM Doc. #
1.0	27 July 2016	

A. POLICY SUMMARY

- A1 The purpose of this policy is to establish a framework for the determination of Development Applications under the *Environmental Planning and Assessment Act 1979*, which are subject to significant public objection.

B. POLICY BACKGROUND

- B1 The *Environmental Planning and Assessment Act 1979* provides for public participation as part of the assessment process for certain Development Applications. Where required, development applications are publically notified and during the notification period, any person may make written submissions to the Council with respect to the development application.
- B2 Submissions on development applications must be made in writing and lodged with Council within the notification period. This period may be extended by Council where it is considered appropriate.
- B3 Council must consider all submissions received within the notification period in its assessment of the relevant Development Application.
- B4 Submissions assist Council in being aware of relevant issues and community concerns when determining an application.
- B5 The Group Leader has Delegation to determine development applications regardless of the number of submissions received in response to the public notification period.
- B6 It is appropriate that development applications that are subject to significant public objection are reported to an Ordinary Meeting of Council for determination.

C. DEFINITIONS

- C1 **Administrator** means any person appointed as an administrator of Central Coast Council pursuant to the *Local Government Act 1993*.
- C2 **Business Update** means a notice distributed by the Group Leader (or his/her nominee) to Councillors and/or Administrator(s) (as appropriate).
- C3 **Call Up Request** means a written request from an Administrator or not less than two Councillors to the CEO or Group Manager requesting that a nominated Development Application be reported to an Ordinary Meeting of Council, for consideration and determination by Council at that Meeting.
- C4 **CEO** means the person appointed to the statutory position of General Manager.
- C5 **Council** means Central Coast Council.
- C6 **Councillor** means a person holding civic office in Council.
- C7 **Delegation** means delegation of functions to determine Development Applications given to the CEO pursuant to s. 377 of the *Local Government Act 1993* or given by the CEO to other Council staff pursuant to s. 378 of that Act.
- C8 **Development Application** means an application made to a consent authority, generally Council, under Part 4 of the *Environmental Planning and Assessment Act 1979* seeking consent to undertake development of land.
- C9 **Group Leader** means the person appointed to or acting in the position of "Group Leader, Environment and Planning" of Council.
- C10 **Notification Period** means the statutory period during which submissions may be received, as determined by the *Environmental Planning and Assessment Regulation 2000* or *Wyong Development Control Plan 2013*. The statutory period may be extended by Council where it is considered appropriate.
- C11 **Petition** means a submission that is signed by three (3) or more people.
- C12 **Submission** means a written response received by Council as a result of the public notification of a Development Application.

D. POLICY STATEMENTS**Jurisdiction**

- D1 This Policy covers Councillors, Administrators, all Council employees and all persons and organisations contracted to or acting on behalf of Council.
- D2 This policy does not confer any delegated authority upon any person. All delegations to staff are issued by the CEO.

General

- D3 The procedure for assessing Development Applications is subject to and prescribed by the *Environmental Planning and Assessment Act 1979*. This Policy does not impact on the statutory obligation to consider submissions as part of the development assessment process.
- D4 Nothing in this Policy prevents a Councillor or Administrator from requesting that a Development Application be reported to an Ordinary Meeting of Council.

E. POLICY IMPLEMENTATION - PROCEDURES

- E1 This Policy should be read in conjunction with Council's adopted *Code of Conduct*.
- E2 It is the personal responsibility of all Council employees and agents to have knowledge of, and ensure compliance with, this Policy.

Procedure for determining Development Applications subject to significant public objection

- E3 Development Applications subject of less than 50 submissions and/or petitions totalling less than 50 signatures will be determined under Delegation, unless a Call Up Request is received by the CEO or the Group Leader.
- E4 Development Applications subject of between 50 and 100 submissions; or petitions totalling more than 50 signatures will be the subject of a Business Update that outlines the number of submissions and/or petitions received and the issues that were raised. Councillors may decide whether to give a Call Up Request to the CEO or the Group Manager. If no Call Up Request is received then the Development Application will be determined under Delegation.
- E5 Development Applications subject of more than 100 submissions (not including petitions) will be reported to an Ordinary Meeting of Council for consideration, unless:
- i. The application is recommended for refusal; or

- ii. Changes have been made to the proposed development that, in the opinion of the Group Leader, have adequately addressed the issues raised during the Notification Period and/or there was a substantial reduction in the number of submissions (to less than 100) as a result of any later re-notification.

In the event of E5(i) or (ii) as described above, the Group Leader will provide a Business Update as detailed in E4.

E6 Associated documents

- Council's adopted Code of Conduct
- Council's Delegation Register
- Wyong Development Control Plan 2013
- Environmental Planning and Assessment Act, 1979