

Warringah Council Policy

PDS-POL 140

Applications for Development - Handling of Unclear, Non-Conforming, Insufficient and Amended Applications

1 Purpose of Policy

To facilitate the assessment of applications for development by communicating the procedures Council will undertake to assess development applications that are either non-compliant, contain insufficient information, are unclear, illegible or substantially amended

Warringah Council is committed to an efficient and effective development application service to achieve a built environment that reflects the desired character for Warringah.

Warringah Council aims to deliver a consistent development application service within reasonable timeframes, based on the provisions of Part Four of the Environmental Planning and Assessment Act 1979.

Warringah Council assesses development applications on merit in accordance with provisions of the Environmental Planning and Assessment Act 1979, Warringah Local Environmental Plan and Development Control Plan (DCP), and any other relevant environmental planning instruments.

2 Principles

Delivery of a consistent development application service within reasonable timeframes is only possible when applicants furnish appropriate information within requested timeframes so an informed, proper and timely assessment can be made of the application.

a) Services associated with Development Assessment

- i) Providing applicant checklists for applicants to complete before lodging the application (provides details to applicants on what information is required for Council to undertake an assessment). Staff may not accept an application if it is inadequate in information or fees.
- ii) Providing a Pre-DA Lodgement meeting with senior staff to give the applicant written advice regarding how the proposed development fits with the relevant development standards etc and advise on improvements such as setbacks, design issues, landscaping and parking etc
- iii) Ensuring the Warringah Local Environmental Plan is freely available on Council's website and ensuring the printed copies are available
- iv) Publicising the standard "Model Conditions" that all developments can expect as part of the conditions of consent
- v) Providing information on Council's website regarding the development assessment process
- vi) Providing brochures at Council's Customer Service Centre
- vii) A voluntary mediation services is available to resolve disputes arising from the notification of Development Applications

b) Processing of Development Applications, Modifications and Review of Determinations

Applications will be processed in accordance with the Environmental Planning and Assessment Act and Regulations, Warringah Local Environmental Plan and other appropriate planning requirements. Internal and external referrals are required for some applications and the assessing officer will take the comments received into consideration when determining the application.

For development applications requiring notification, Council will adhere to the notification protocols stated in Warringah Development Control Plan (DCP) and notify surrounding landowners of the development application. A copy of DCP is available from Council's Customer Service Centre

i) Requests for further information

Clause 54 of the Environmental Planning and Assessment Regulation 2000 allows the Council to request additional information about the proposed development to allow for the proper consideration of the application. Council will require any additional information to be provided within 28 days.

Council will apply 'stop the clock' provisions where appropriate until;

- All necessary information is received, or
- The applicant notifies Council the information will not be provided, or
- The application is determined

If the requested information has not been received at Council within 28 days of the original letter and no request for extension has been received a further letter will be sent to the applicant advising that if all information is not provided within a further 14 days the development application will be determined on the information available and may be formally refused.

The Council will only agree to a further extension of time if it is satisfied that genuine extenuating circumstances have prevented the provision of additional information. For this to occur the applicant is required to submit in writing their reasons for seeking a further extension and stipulate a possible timeframe. Under those circumstances the applicant may be provided with a further extension of time. The extension of time will be considered by a senior staff member. Should the additional information not be provided after the expiry of that period, the application will then be determined on the information available and on the merit of the case?

ii) Illegible or Unclear Development Applications

Clause 51 of the Environmental Planning and Assessment Regulation 2000 provides that Council may reject a development application within 7 days after receiving it if the application is illegible or unclear as to the development consent sought.

Where a development application is illegible or unclear, the applicant will be notified in writing within 7 days of lodgement of the development application and advised the application is rejected. An application that is rejected is taken to have never been made, and Council will refund to the applicant all fees in relation to the application.

c) Development Applications Not Conforming with the Planning Controls

For development applications and modifications of consent that significantly breach the planning controls, a senior officer shall consider issuing a letter advising that should the application be withdrawn within seven (7) days, a full refund shall be issued (less administration fee).

If the application is not withdrawn the proposal will be notified.



At completion of the notification period Council will assess the development application on merit, taking into account the non-compliant nature of the application and any submissions received. This may result in a refusal.

d) **Accepting Amended Applications**

Should an amended application be received prior to determination, Council will consider whether the changes are substantial in relation to the original application. Should the amended application involve substantial change, Council may reject the amended application and determine the original proposal.

3 Authorisation

This Policy was adopted by Council on 11 December 2007

It is effective from 11 December 2007

It is due for review on 11 December 2009

4 Amendments

This Policy was last amended on [insert date].

5 Who is responsible for implementing this Policy?

Manager Development Assessment

6 Document owner

Director Planning and Development

7 Related Council Policies

- a) Warringah Council Mediation Policy – GOV PL135]
- b) Warringah Local Environmental Plan.
- c) Warringah Development Control Plan
- d) Booklet “Lodging a Development Application in Warringah”.

8 Legislation and references

- a) Local Government Act 1993.
- b) Environmental Planning and Assessment Act 1979.
- c) Environmental Planning and Assessment Regulation 2000list]

9 Definitions

Development is defined as per Section 4 of the EPA Act 1979 to mean;

- The use of land and
- The subdivision of land and
- The erection of a building and
- The carrying out of work and
- The demolition of a building or work and
- Any other act or matter or thing referred to in section 26 of the EPA Act that is controlled by an environmental planning instrument but does not include any



development of a class or description prescribed by the regulations for the purposes of this definition.

Development Application means an application for consent under Part 4 of the EPA Act 1979 to carry out development, but does not include an application for a complying development certificate.

Mediation is a voluntary process of assisted negotiation between disputing parties, conducted by an impartial person or persons.

