



Development Act Delegations

Endorsed by Council 12 September 2017

MITCHAM

public policy

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1. PREAMBLE

Council's intention is to establish a basis for delegation of its powers under Part 4 of the Development Act in accordance with the requirements of the Act.

The basis of the Policy is that the majority of development applications will be managed and determined by authorised officers, with more complex matters and those involving some public notification issues being dealt with by the Council Assessment Panel (CAP).

This policy is framed to provide a balance between the most efficient development processing decision making under delegation and the need for the more significant or complex applications to be considered by the CAP.

The effect of this is that:

- Non-complying applications;
- Public notified applications where representors wish to be heard;
- Applications that are recommended for refusal;
- Demolition of an existing dwelling and/or construction of a new dwelling in the Colonel Light Gardens State Heritage Zone and Historic Conservation Policy Areas; and
- Alterations and additions where the development is not supported by the Council Heritage Advisor or the State Heritage Branch

are referred to the CAP for determination.

2. PURPOSE

To identify the types of applications to be determined by the Development Assessment Panel.

3. SCOPE

The policy applies to all officers undertaking development assessment duties under the Development Act 1993.

4. DEFINITIONS

Development Means:

- (a) building work; or
- (b) a change in the use of land; or
- (c) the division of an allotment; or
- (d) the construction or alteration (except by the Crown, a council or other public authority (but so as not to derogate from the operation of paragraph (e)) of a road, street or thoroughfare on land (including excavation or other preliminary or associated work); or
- (da) the creation of fortifications; or
- (e) in relation to a State heritage place—the demolition, removal, conversion, alteration or painting of, or addition to, the place, or any other work that could materially affect the heritage value of the place; or

- (f) in relation to a local heritage place—the demolition, removal, conversion, alteration or external painting of, or addition to, the place, or any other work (not including internal painting but including, in the case of a tree, any tree-damaging activity) that could materially affect the heritage value of the place; or
- (faa) the external painting of a building within an area prescribed by the regulations for the purposes of this paragraph; or
- (fa) in relation to a Regulated Tree — any tree-damaging activity; or
- (g) prescribed mining operations on land; or
- (ga) prescribed earthworks (to the extent that any such work or activity is not within the ambit of a preceding paragraph); or
- (h) an act or activity in relation to land (other than an act or activity that constitutes the continuation of an existing use of land) declared by regulation to constitute development, (including development on or under water) but does not include an act or activity that is excluded by regulation from the ambit of this definition;

Site	means the area of land (whether or not comprising a separate or entire allotment) on which a building is built, or proposed to be built, including the curtilage of the building, or in the case of a building comprising more than 1 separate occupancy, the area of land (whether or not comprising a separate or entire allotment) on which each occupancy is built, or proposed to be built, together with its curtilage;
Representor	A person who has made a submission in accordance with the Development Act, in relation to either Category 2 or 3 development.
Non-complying development	Any development described as a <i>non-complying</i> development under the relevant Development Plan.
Dwelling	means a building or part of a building used as a self-contained residence;
Complying Development	Any development described as <i>complying</i> development under Schedule 4 of the Development Regulations or the Development Plan.
Category 3	All development that is not assigned as either Category 1 or Category 2 for public notification purposes.
Category 2	A public notification category assigned to development by Schedule 9 of the Development Regulations or by the Development Plan.
Limited Assessment	Development that meets all but 1 criteria necessary for it to be complying development.

5. PRINCIPLES

Assessment of applications undertaken in accordance with the requirements of the Development Act 1993 and Development Regulations 2008.

6. POLICY STATEMENT

- (1) Other than applications for residential development within the Residential (Craigburn) Zone, Complying Development or development that meets all but 1 criteria necessary for it to be complying development, known as 'limited assessment (unless notification has occurred and representors wish to be heard), the following types of applications shall be referred to the CAP for determination:
 - a) Non-complying applications (except minor non-complying applications in accordance with Regulation 17 and Schedule 9 of the Development Regulations, and the decision to proceed with an assessment of a non-complying application);
 - b) Any Category 2 or 3 application where a representor wishes to be heard by the CAP in person;
 - c) Applications for demolition of a dwelling and/or construction of a new dwelling(s) in the State Heritage Area (Colonel Light Gardens), or any Historic (Conservation) Zone or Policy Area;
 - d) Applications for alterations and additions where the development is not supported by the Council Heritage Advisor or the State Heritage Branch, including but not limited to the demolition of Local or State Heritage places;
 - e) All applications recommended for refusal, including declining to proceed with an assessment of a non-complying development application, other than those applications that are being refused for the non-supply of information;
 - f) Any application deemed by the Assessment Manager as being appropriate to be determined by the CAP.

7. POLICY REVIEW

This policy will be reviewed on an annual basis.

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8. VERSION HISTORY

VERSION	AUTHOR(S) POSITION	CHANGES	DATE
1	Full Council		15 December 1997
2	Mitcham Planning Authority		17 August 1998
3	Mitcham Planning Authority		21 December 1998
4	Special Council		28 July 1999 / 2 August 1999
5	Full Council		27 July 2004
6	Full Council		21 November 2006
7	Full Council		25 September 2007
8	Full Council		24 March 2009
9	Full Council		23 March 2010
10	Full Council	Document revised in relation to matters to be referred to the Development Assessment Panel.	28 June 2011
11	Brett Miller – Manager Planning & Building Services	Changes to policy statement and added definition (Building Line)	26 November 2013
12	Full Council	Minor Editorial Changes	9 September 2014
13	Full Council	Large amount of changes regarding the types of development applications presented to the CDAP (Council Development Assessment Panel)	13 December 2016
14	Manager Planning & Building Services	Minor amendments to cover change from Council Development Assessment Panel to Council Assessment Panel. Policy title changed to Development Act Delegations Policy	12 September 2017

9. DOCUMENT CONTROL

Responsible Department	Planning & Building Services		
Delegations Apply	No		
Classification	Development Control		
Applicable legislation	Development Act 1993 & Development Regulations 2008		
Related Policies & Corporate Documents	Mitcham (City) Development Plan		
Additional references	Nil		
Endorsed by Council:	12 September 2017	Item No:	10.3
Effective Date:	1 October 2017	Next Review Date:	September 2018
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Template Folder No:	FF/2012/245	Template Record No:	12.60143[v4]