Development Applications

Handling of unclear, incomplete, non-conforming and amended applications - 2016

AUTHORISATION & VERSION CONTROL

Policy Number	*POL-034*
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SCOPE

To facilitate the efficient, effective and transparent assessment of development applications (DAs) specifically as it relates to the handling of unclear, incomplete, non-conforming and amended applications.

This policy aims to deliver a consistent development application service within reasonable timeframes, based on the provisions of the legislative framework and industry standards.

Note: A reference to DAs also includes related applications made under Section 96 and Section 82A of the environmental Planning and Assessment Act 1979 ("the Act).

PURPOSE

To assist applicants in preparing full and proper DA submissions, ready for assessment, Council provides the following:-

- Access to its Local Environmental Plans (LEPs) and Development Control Plans (DCPs) at its customer service centres, as well as online at www.cumberland.nsw.gov.au

- A planning enquiry service, on the phone or in person at its customer service centres.

- Formal pre-DA meeting service where proposals can be discussed in detail with council officers and written advice is provided.

- Access to a comprehensive suite of DA sub mission checklists that explain what is required to be submitted with DAs - available at our customer service centres or on-line.

Despite the above, applications are still received from time to time that are unclear, incomplete or non-conforming. To address these situations, Council will handle applications as follows: -

Unclear/Incomplete DAs

When lodging in person at our Customer Service Centre, a Council officer will check a DA package to ensure that it has provided all the relevant information. If it is generally clear and complete, an application will be accepted. However, if it is unclear or incomplete the officer will request that, before formally receiving the DA, the applicant addresses the deficiencies before returning to lodge.

Clause 51 of the Environmental Planning and Assessment Regulations 2000 ("the Regulations') allows Council to reject the receipt of DA, even after it has been formally lodged (within 14 days), as if it was never lodged. DAs can be rejected if they are unclear or illegible or if it is missing certain information required for its assessment. 1f an application lodged with

Council falls into this category, it will be rejected. The applicant will be advised in writing within 14 days of lodgement and will receive a full refund of fees paid, less any administrative fees.

Non-Confirming DAs

Council will assess all DAs on merit, however, where an application significantly breaches the development controls and cannot be supported by council officers on merit, or the application has another fundamental flaw that cannot be supported on legally or on merit, the Council will first provide the applicant with an option to withdraw the application with a partial refund of fees in accordance with its adopted fees and charges. The applicant will be provided a period of 7 days to decide.

In these circumstances, the Council will not generally allow the applicant to modify their application or submit additional information (as per Clause 55 of the Regulations), as it may require a significant change to the proposal warranting a major reassessment and/or the additional information required may take a significant time to procure.

If an applicant chooses not to withdraw the application, the application will be determined based on the information submitted, which in the circumstances, is likely to result in a refusal. In the case of a refusal, there will be no refund of fees paid.

Amended DAs

Clause 54 of the Regulations allows the Council to seek additional information about a DA to facilitate the full and proper consideration of the proposal. This may also include the applicant making minor amendments to the proposal to address any deficiencies identified, but only if Council consents to the receipt of these changes as per Clause 55 of the Regulations.

In circumstances where Council may "defer" an application seeking that the applicant lodge additional information to address identified deficiencies, the Council will require that this information be provided within 14 days.

Council will apply "stop the clock provisions" (Clause 109 of the Regulations) where appropriate until:

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

If the requested information has not been received at Council within 14 days, and no request for extension has been received, then the application will be determined based on the information received, which is likely to result in the refusal of the DA.

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 an extension and stipulate a time when the outstanding information can be produced in whole.

However, any decision to grant an extension of time will generally be limited to 7 days. for minor DAs and 14 days for major DAs, from the date of the expiry of the original timeframe. The extension will be considered by a senior officer.

Should an extension not be granted, an applicant will be provided with an option to withdraw the application with a partial refund of fees in accordance with its adopted fees and charges. The applicant will be provided a period of 7 days to decide. If an applicant chooses not to withdraw the application, the application will be determined based on the information submitted, which in the circumstances, is likely to result in a refusal.