



PLANNING PERMIT APPLICATION DELEGATIONS POLICY

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1. PURPOSE

This Planning Permit Application Delegations Policy underpins the planning permit application process and Instruments of Delegation adopted by Council from time to time.

The policy is to be referred to when exercising the power conferred by the Instrument of Delegation. The powers, discretions, functions or authorities delegated shall be performed by the designated delegates in accordance with the policy and guidelines.

2. POLICY STATEMENT

Council's role in the planning process is divided into three categories: Local Governance, Planning Authority and Responsible Authority. These are clearly defined and separate functions of the Council and are detailed below.

As a democratically elected body, Council has an obligation to represent and meet the needs of the local community. Council is mindful that this role is to be fulfilled in accordance with the legislative framework governing the power, duties and functions of Council, including the provisions of the *Planning and Environment Act 1987*. Good local governance dictates the need for clarity in terms of the roles and responsibilities of Council, councillors and officers in the decision making process.

As Responsible Authority, the Council is charged with administering the East Gippsland Planning Scheme pursuant to the provisions of the *Planning and Environment Act 1987*. The Act specifically bestows upon Council all of the duties, functions and powers in relation to assessing and determining applications for planning permit approval.

For Council to efficiently and effectively discharge its duties, functions and powers under the Act, it must delegate responsibilities to appropriate officers. The Planning Permit Application Delegations Policy is to assist with the interpretation of the roles and responsibilities in terms of officer delegations as well as to communicate Council's expectations in terms of decisions made under the instrument of delegation.

3. RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

These positions are responsible for implementation and compliance monitoring of the policy in their work areas:

Party / Parties:	Roles and responsibilities:
Councillors	To ensure community awareness of and adherence to this Policy.
Chief Executive Officer	To ensure staff and community awareness of and adherence to this Policy.
Director Development	To ensure staff and community awareness of and oversee the implementation of this policy
Manager Statutory Services	To ensure staff and community awareness of and adherence to this Policy.
Planning Officers and Statutory Services Administration Officers	To ensure staff and community awareness of and adherence to this Policy.

All staff have an obligation to report occurrences of non-compliance with Council policy. Incidents of non-compliance should be reported immediately to the Director responsible for this policy, the Policy Owner or the Administration Unit.

4. SCOPE OF POLICY

This policy applies to all Councillors, Council Officers, individuals, companies and any other parties involved in the development, lodgement, review and decision making processes involving, planning permit applications and any other related planning considerations.

5. REFERENCES / ASSOCIATED DOCUMENTS

East Gippsland Planning Scheme

Instrument of Delegation

The Council Plan identifies the following goals:

- A Liveable Region Goal 1 East Gippsland has safe, accessible and well utilised open spaces and built environments that reflect the priorities of our community
- A Liveable Region Goal 2 Sustainable planning and growth supports thriving townships, while maintaining our commitment to sustainability and protecting our natural environment
- A Growing Region of Opportunities Goal 1 East Gippsland is a region of economic opportunity with strong industry sectors, a skilled workforce and local jobs

5.1 Relevant Legislation

- *Local Government Act 1989*
- *Planning and Environment Act 1987*
- *Aboriginal Heritage Act 2006*
- *Building Act 1996*
- *Environmental Protection Act 1970*
- *Heritage Act 2017*
- *Housing Act 1983*
- *Liquor Control Reform Act 1998*
- *Privacy and Data Protection Act 2014*
- *Subdivision Act 1988*
- *Planning and Environment Regulations 2015*
- *Planning and Environment (Fees) Regulations 2016*

6. PRIVACY AND HUMAN RIGHTS CONSIDERATION

The disclosure of information revealed by planning processes is regulated by the Information Privacy Act 2000. It is an offence to disclose such information to a third party unless exempted under the Act.

The Planning Permit Application Delegations Policy has been assessed as compliant with the obligations and objectives of the Victorian Charter of Human Rights and Responsibilities Act 2006.

7. DEFINITIONS AND ABBREVIATIONS

Term:	Meaning:
the Act	the <i>Planning and Environment Act 1987</i>
the Delegate	the member of Council staff holding, acting in or performing the duties of office or position as described within the Instrument of Delegation
the Planning Scheme	the East Gippsland Planning Scheme
Planning Consultation Meeting (PCM)	A meeting conducted by Councillors and attended by Planning Officers, Permit Applicants and Objectors, with the primary purpose of informing Councillors of the matters at issue in advance of the application being presented for determination at an Ordinary Meeting of Council.
Determining Referral Authority	An authority as specified in clause 66 of the Planning Scheme as a determining referral authority.

8. SUPPORTING PROCEDURES / GUIDELINES

8.1 Authority to Issue a permit with conditions:

Delegated officers have authority to issue a permit with conditions having regard to any relevant policy or procedure of Council:

- Where an application is lodged in general compliance with the East Gippsland Planning Scheme (including incorporated documents) and Council's adopted policies and procedures and no objections are received.
- Where an application substantially complies with any relevant Council policy or procedure and no objections are received.
- Where Council have determined an application and the resolution is for the issue of a permit with conditions.

8.2 Authority to issue a Notice of Decision to grant a permit with conditions:

Delegated officers shall have authority to issue a Notice of Decision to grant a permit with conditions having regard to this delegation policy and decision guidelines and any relevant policy or procedure of Council:

- Where an application is lodged in general compliance with the East Gippsland Planning Scheme (including incorporated documents) and Council's adopted policies and procedures and nine or less objections are received.
- Where an application has been determined by Council and the resolution is for a Notice of Decision to grant a permit with conditions.

In exercising a power, function or duty, the delegate must have regard to all statutory requirements, relevant legislation and any guidelines or policy, which the Council may from time to time adopt.

Prior to a decision being made under delegation, a Delegate Report must be prepared and approved by the Delegate and a copy retained on the relevant file. The Delegate Report should contain, as a minimum:

- Outline of the proposal;
- Site and locality description;
- Site history;
- Methods of advertising and summary of submissions or objections received;
- Referrals undertaken and summary of responses received;
- Assessment against the Planning Scheme requirements (including Zone and Overlay provisions, State Planning Policy Framework, Local Planning Policy Framework, relevant Particular Provisions and decision guidelines)
- Recommendation; and
- Recommended conditions to be placed on permit/reasons for refusal.

The following process will apply to notifying Councillors of planning permit applications:

- Councillors will receive a listing of all new applications for permits received on a weekly basis for information.
- Councillors will receive a monthly briefing from Officers at the Cr/CEO discussion (held on the second Tuesday of the month) highlighting applications that may be of significance to Councillors.
- Based on this information Councillors can also request further information through the Director on individual applications.

The Delegate may refer to the Council for its determination on any matter in relation to its powers and functions and responsibilities under the Act.

8.3 Mediation

Where a planning permit application receives between five and nine objections a mediation meeting will be conducted.

The primary objective of the mediation meeting is to resolve issues and reach agreement between applicant and objector(s) so as to allow for the timely determination of the application under delegation by Council planning officers. If an agreed position cannot be reached through this process the matter will be determined by Officers under delegation; noting that third party appeal rights will apply

The mediation meeting will involve the applicant and/or their representatives, the objectors and /or their representatives, two Councillors (one as the chair) the relevant manager and the planning officer processing the application.

8.4 Call-in Protocol

Any Councillor may, at any time prior to the determination of an application, request that the matter be referred to the Council for determination. A call-in can be made with the support of at least three Councillors (in total).

In making such a request in writing to the Chief Executive Officer, a Councillor must have regard to the principles listed in the points below:

- The planning permit application raises issues of genuine municipality wide significance that would have a substantial impact on the achievement of Local Planning Policy.
- The planning permit will have a significant impact beyond the immediate locality, including an impact across municipal boundaries.
- The planning permit application clearly raises an issue that is not adequately provided for under existing Local Planning Policy.
- The planning permit application or the development of the land may raise significant issues of public interest.
- The planning permit application will result in a use or development which is contrary to a proposed planning scheme amendment which is supported by Council.

8.5 Applications to be determined by Council

All applications in the following categories are to be referred to Council for decision:

- Planning applications that receive ten or more separate objections.
- Planning applications with a value in excess of \$5 million will be referred to the Council, unless they are located in Industrial 1 Zone.
- Planning applications at the discretion of the Chief Executive Officer.

8.6 Authority to issue a Notice of Refusal:

When after due consideration of a planning permit application a Planning Officer determines that an application cannot be supported, the matter will be reported to Council for consideration and determination.

However, an exception to this will arise where a “Determining Referral Authority” lodges an objection to a planning permit application. In this case a notice of refusal will be issued by the Planning Officer (s).

8.7 Council Determined Applications

Where applications for planning permits are to be heard at a Council meeting, the following procedures will be followed:

8.6.1 Prior to Council Meeting

If a planning permit application receive ten or more objections’ a Planning Consultation Meeting (PCM) will be conducted.

The PCM will be attended by all available Councillors and relevant planning officers.

The applicant and the objectors will be provided the opportunity to address the PCM. Any address to the PCM must be no longer than 5 minutes at the discretion of the Mayor an extension of time may be provided.

No decision will be made on the application at a Planning Consultation Meeting. The application will be presented to a future Council Meeting for determination.

Where a planning permit application is called in by Councillors a Planning Consultation Meeting will be required.

Any planning permit application to be heard by Council will be the subject of a Councillor/CEO discussion.

8.6.2 At the Council Meeting

Any planning permit application which has been the subject of a Planning Consultation Meeting will result in applicants and objectors not having the opportunity to address Council.

Council officers will then present the Officer's report for the consideration of Council.