



**DETERMINATION OF
DEVELOPMENT APPLICATIONS
CONTRARY TO DIRECTOR'S
RECOMMENDATIONS
POLICY**

1. Policy Objectives:

To ensure that the required ethical and professional standards are applied in determination of development applications.

To protect the interests of Council in the event that a decision made by Council is challenged by appeal to the Land and Environment Court.

2. Policy Statement:

Where Council wishes to determine an application contrary to the recommendations made by the Director, Council must ensure that valid legal conditions of consent for an approval and reasons for refusal are prepared by a suitably qualified person and that such conditions must be adopted at the time of making such determination. This ensures that the foundations for the issue of the consent are legal and in accordance with the Act under which they are issued.

To ensure that the ethical and professional standards of Council's staff (Delegated Staff Members) involved in the assessment and determination of development applications are maintained, the preparation of Council's reasons and conditions of consent shall not involve those staff in question.

3. Court Appearance

Where Council has determined an application contrary to the recommendations of the Director, Council staff will not represent Council in court unless they have been directly served a subpoena.

4. Review

This policy will be reviewed within one year of the election of every new Council, or earlier should circumstances arise to warrant revision.

References:

- a. Environmental Planning & Assessment (EP&A) Act 1979.
- b. "*Corruption Risks in NSW Development Approval Processes*", Commission Against Corruption (ICAC)'s Position Paper, September 2007.

Authorisation:

Status	Committee	Nil	
	Manex		
Owner	Director Community & Regulatory Services		
RM8 Doc. ID			
Superceded Policy	Nil		
Date of Adoption/ Amendment	Revision Number	Minute Number	Review Date
15 September 2017		2017/268	Within 12 Months of 2020 Election

Related Council Policy / Procedure
Code of Conduct