

Shire of Mundaring

POLICY

RETROSPECTIVE APPROVAL OF PLANNING PROPOSALS

Policy Ref:	PS-07	File Ref:	PS.CDE 17/PPO
Committee Rec:	DAC17.12.05	Date:	6 Dec 05
Adopted by:	RC11.12.05	Date:	13 Dec 05
Amended by:		Date:	
Reviewed:	Once per Electoral Cycle	Date:	23 August 2011
Procedure Ref:		Delegation Ref:	
Statute Ref:			
Local Law Ref:			

PURPOSE

To provide a guide for granting retrospective approval to development applications under Town Planning Scheme No. 3.

POLICY OBJECTIVES

1. To set out a procedure for the retrospective approval of planning applications.
2. To ensure that where a retrospective approval is required it can be assessed in a timely manner.

BACKGROUND

The Shire's Town Planning Scheme No. 3 sets out the instances where the development or use of a property requires planning approval to be obtained, prior to the development/use taking place. However, it is unfortunately a common occurrence that the development/use often takes place prior to planning approval being obtained.

Council does have the ability to consider the applications and grant retrospective approval for development. However, the absence of a Policy in this instance can result in considerable delays in the processing of planning applications, as they are referred to Council through a lengthy process. This has caused concern, especially as many illegal structures only come to light when properties are being sold.

The formulation and existence of this policy should not be interpreted as any endorsement by Council that the failure to obtain planning approval is an acceptable practice. Rather, this Policy seeks to set out a framework for the assessment of applications for retrospective approval to ensure timely assessment and determination of such applications.

Scheme Provisions

Clause 6.6(16) of Town Planning Scheme No.3 gives Council the power to consider approval to applications retrospectively. Importantly, this clause states that Council's approval of existing development shall not affect its power to take action for the breach of the Scheme.

This Policy is a Town Planning Scheme Code and has been developed in accordance with Clause 8.14 of Town Planning Scheme No. 3.

Application

This Policy applies to all planning proposals that require retrospective determination under Town Planning Scheme No. 3.

Interpretation

Reference in this Policy to:

“Council” means the Council of the Shire of Mundaring.

“Ward Councillors” means the Councillors of the Ward where the development has taken place.

“Town Planning Scheme” means the Shire of Mundaring Town Planning Scheme No.3

POLICY

1. Applications are to be assessed as if they are new proposals for planning approval.
2. In the event that the development requires advertising, staff shall advertise the development to adjoining neighbours and Ward Councillors for a period of 21 days.
3. Development that complies with all of the criteria in Table 1 of this Policy may be approved without referral of the development application to Council.
4. Development that fits in one or more of the criteria in Table 2 shall be referred to Council for determination.

TABLE 1 – DEVELOPMENT THAT MAY BE APPROVED WITHOUT REFERRAL TO COUNCIL

		CRITERIA	
Development Type	Zone	Design / Location	
Structures	All Zones	Where the development: (a) Complies with a permissible or discretionary use under the Town Planning Scheme and Town Planning Scheme Codes including the exercise of any other delegation; (b) Complies with the provisions of the Town Planning Scheme and Town Planning Scheme Codes including the exercise of any other delegation; (c) Following advertising (where required), no valid objections, in the opinion of the delegated officer, are received (where applicable); and (d) In the opinion of the delegated officer does not warrant the attention of Council	
Keeping of Stock	All Zones	(a) Where the keeping of stock is a permissible or discretionary use under the Town Planning Scheme and Scheme Codes including the exercise of any other delegation; (b) No environmental damage had occurred in the opinion of the Shire's Environmental Service. (c) The applicant submits an acceptable stock management plan in the opinion of the Shire's Environmental Service; (d) No valid objections, in the opinion of the delegated officer, are received (where applicable); and (e) The application does not warrant the attention of Council in the opinion of the delegated officer.	
Change of Use	All Zones	Where the development: (a) Complies with a permissible or discretionary use under the Town Planning Scheme and Town Planning Scheme Codes including the exercise of any other delegation; (b) Complies with the provisions of the Town Planning Scheme and Town Planning Scheme Codes including the exercise of any other delegation; (c) No valid objections, in the opinion of the delegated officer, are received (where applicable); and (d) In the opinion of the delegated officer does not warrant the attention of Council	

TABLE 2 – DEVELOPMENT THAT WILL BE REFERRED TO COUNCIL

	CRITERIA	
Development Type	Zone	Design / Location
Structures	All Zones	<p>Where the development:</p> <ul style="list-style-type: none"> (a) Is not a permissible or discretionary use under the Town Planning Scheme and Town Planning Scheme Codes including the exercise of any other delegation; or (b) Does not comply with the provisions of the Town Planning Scheme or and Policy including the exercise of any other delegation; or (c) Following advertising (if required) is the subject of valid objections from adjoining landowners or Ward Councillors in the opinion of the delegated officer; (d) In the opinion of the delegated officer warrants the attention of Council
Keeping of Stock	All Zones	<ul style="list-style-type: none"> (a) Where the keeping of stock is not a permissible or discretionary use under the Town Planning Scheme or Scheme Codes including the exercise of any other delegation; or (b) Where Environmental damage had occurred in the opinion of the Shire's Environmental Service; or (c) Following advertising (if required) is the subject of valid objections from adjoining landowners or Ward Councillors in the opinion of the delegated officer; (d) In the opinion of the delegated officer warrants the attention of Council
Change of Use	All Zones	<p>Where the development:</p> <ul style="list-style-type: none"> (a) Is not a permissible or discretionary use under the Town Planning Scheme and Town Planning Scheme Codes including the exercise of any other delegation; or (b) Does not comply with the provisions of the Town Planning Scheme or and Policy; or (c) Following advertising (if required) is the subject of valid objections from adjoining landowners or Ward Councillors in the opinion of the delegated officer; (d) In the opinion of the delegated officer, the application warrants the attention of Council.