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1. Background

Development applications and related activities are a fundamental part of Council's business and are of interest to multiple Council departments and other government agencies, the community and the development industry. Ipswich is a significant growth area in the South East Queensland Region, with our population expected to more than double by 2041. Development applications are the legislative vehicle through which this growth is managed. The development of land in Ipswich is regulated and influenced by various pieces of Commonwealth, State and Local legislation, and these legislative provisions define a strict framework prescribing what can and cannot be required by Council (including elements considered in the assessment of applications, and limitations on development conditions) and timeframes for decisions on various matters.

The outcome of development applications is of interest to a wide range of people and groups, including residents, investors, developers, business owners, government departments, community groups etc. With so many competing priorities and interests in development and such a rigorous legislative framework, it is important to ensure meaningful consultation is undertaken with relevant entities on the right matters, and views are appropriately defined, reviewed and balanced by Council decision makers.

2. Purpose and Principles

This policy provides Council with a governance framework for processing development applications and related activities which is lawful, transparent, accountable, effective, efficient and sustainable and maximises achievement of the Local Government principles.

3. Strategic Plan Links

This policy aligns with the following iFuture 2021-2026 Corporate Plan themes:

- Vibrant and Growing
- Safe, Inclusive and Creative
- Natural and Sustainable
- A Trusted and Leading Organisation

4. Regulatory Authority

The main legislative provisions that apply to the development of land in Ipswich are as follows:

- *Building Act 1975*
- Development Assessment Rules
- *Economic Development Act 2012*
- Economic Development Regulation 2013
- *Environmental Protection and Biodiversity Conservation Act 1999*
- *Environmental Protection Act 1994*
- *Environmental Protection Regulation 2008*
- Ipswich Planning Scheme
- *Local Government Act 2009*
- *Nature Conservation Act 1992*
- *Planning Act 2016*
- *Planning Regulation 2017*
- *Planning and Environment Court Act 2016*
- *Planning and Environment Court Rules 2018*
- *Plumbing and Drainage Act 2002*
- Ripley Valley Development Scheme
- South East Queensland Regional Plan
- State Planning Policy
- *Vegetation Management Act 1999*

5. Human Rights Commitment

Ipswich City Council (Council) has considered the human rights protected under the *Human Rights Act 2019 (Qld)* (the Act) when adopting and/or amending this policy. When applying this policy, Council will act and make decisions in a way that is compatible with human rights and give proper consideration to a human right relevant to the decision in accordance with the Act.

6. Scope

This policy relates to the processing of all development applications (including material change of use, reconfiguring a lot, area development plan, priority development area, environmentally relevant activities, variation requests, operational works, building works and plumbing works and related applications such as change applications, extension to relevant period applications, superseded planning scheme requests, plan of subdivision requests, conversion applications etc) and development related activities (such as prelodgement meetings, fees and charges, infrastructure agreements, appeals, compliance, naming requests, request for comments on proposed community infrastructure designations or public housing proposals etc). The policy broadly covers a wide range of core matters, and has a number of related procedures which provide the detail on the process to be fulfilled to achieve the policy outcomes sought.

7. Roles and Responsibilities

This policy applies to all Councillors and Council officers and is directly relevant to officers involved in Planning and Regulatory Services who are involved in the assessment and determination of development applications and requests.

8. Key Stakeholders

The following will be consulted during the review process:

- Planning and Regulatory Services Department
- Legal and Governance Branch

9. Statement

Council is committed to development related practices that are lawful, transparent, accountable, effective, efficient and sustainable and maximise achievement of the Local Government principles. The following core principles must be adhered to in the processing of development applications and for development related activities:

- **Decision Process for Development Applications and Requests** – The decision process for development applications and requests is to be as follows and in accordance with the related procedures:
 - Delegation - Development applications and requests that are generally in accordance with the planning scheme and relevant legislative framework are to be assessed and determined under delegation by officers with the appropriate qualifications and experience within the Planning and Regulatory Services Department (with consultation undertaken with officers in other departments as necessary). These applications include all building work (including where Council is a referral agency for building work), plumbing work, operational work and environmentally relevant activity applications, minor change applications, extension to relevant period applications, minor alterations, responses to proposed infrastructure designations or public housing proposals, requests to sign plan of subdivisions, naming requests and most reconfiguring a lot, material change of use, area development plans, priority development area applications, plans of development, context plans, superseded planning scheme requests, and 'other change' applications. All development applications and requests that are decided under delegated authority are to be reported to the next practicable Committee meeting.
 - Fast Track – Certain qualifying minor, simple development applications and requests are to be assessed and determined under delegation via a streamlined 'Fast Track' process pursuant to the related procedure.
 - Committee or Full Council – Development applications are only to be reviewed and decided by Committee or by Full Council in the following circumstances:
 - If the development application or request requires public notification and more than 20 properly made submissions are received objecting to the proposed development.
 - If the Chief Executive Officer determines that the scale, scope, nature and sensitivity of the application or request warrants a Council decision, such as a Variation Request;
 - If an application or request is considered by the Chief Executive Officer to involve a matter of *Strategic Public Interest* or a *Strategic Policy Issue*,

including as a result of a request from the Mayor or a Councillor to consider a matter to be of *Strategic Public Interest* or involve a *Strategic Policy Issue*.

- If a development application has been made by Council or a commercial entity of Council, and does not relate to the provision of standard local government infrastructure and facilities such as parks (including canteens, storage sheds, lighting and other similar facilities within parks), roads, libraries, community centres or meeting rooms, art and cultural facilities (including public art), emergency services facilities, utilities or the like.
- If the application or request involves a *Sensitive Development Matter*.
- If a request to change or extend an approval that was originally decided by Committee or Full Council is received, the relevant Branch Manager must send an email to the Mayor and all divisional Councillors summarising the request and seeking direction on whether the request needs to be reviewed and decided by Committee or by Full Council. If the Mayor or any Councillor elects for the decision to be by Committee or Full Council, then a recommended decision must be provided to the next practicable meeting.

In all circumstances, a recommended decision will be provided in a Committee Report prepared by officers within the Planning and Regulatory Services Department (with consultation undertaken with officers in other departments as necessary in formulating the recommendation).

- **Deemed approvals** – In the event a development application is at risk of being subject to the Deemed Approval provisions in Section 64 of the *Planning Act 2016* **and that application is required to be decided by Committee or by Full Council**, a Special Meeting must be arranged so that the development application can be determined prior to the application being eligible for deemed approval. In the event a Special Meeting cannot be arranged within the relevant timeframe and consent cannot be obtained from the applicant to extend the decision making period, the relevant Branch Manager must send a copy of the recommendation to the Mayor, Chairperson of the Committee, affected divisional Councillor(s), Chief Executive Officer, General Manager (Planning and Regulatory Services) and Manager, Legal and Governance (General Counsel), inviting comments by a reasonable nominated period, and determine the application based on any comments received, prior to the application being eligible for deemed approval.
- **Legal Matters** - All Planning and Environment Court Appeals, Alternative Dispute Resolution Procedures and Judicial Reviews are to be undertaken in accordance with the related procedure. An update on all development related Legal Matters is to be provided to each Committee Meeting. Where it is proposed to settle an appeal relating to a development matter, the relevant Branch Manager must (where practicable) consult with the Mayor, Chairperson of the Committee, affected divisional Councillor(s), Chief Executive Officer, General Manager (Planning and Regulatory Services) and Manager, Legal and Governance (General Counsel),. Consultation emails may be sent by another nominated officer such as the relevant Section Manager on behalf of the Branch Manager.

- **Naming** – the naming or renaming of all roads, private roads, parks, bridges and places within the Ipswich Local Government Area will be undertaken in accordance with the related procedure. Preferred names are those of Pioneers, an individual or family who have an exemplary long history associated to the area, or for local identities with national level sporting or cultural achievements. Estate names, business names, product names, religious names or themes, political names or themes, developer, consultant, Council officers or Councillors names are not to be used.
- **Property and Kerbside Numbering** – Property and kerbside numbering will be undertaken in a consistent manner, in both rural and urban areas, in accordance with the related procedure.
- **Infrastructure Charges, Offsets or Refunds** – Infrastructure charges are to be levied in accordance with relevant legislative provisions, including the *Planning Act 2016*, *Economic Development Act 2012*, Ipswich Adopted Infrastructure Charges Resolution, Local Government Infrastructure Plan, Infrastructure Agreements, Development Charges and Offset Plan and the related procedure. When trunk infrastructure is conditioned on a development approval and there is a consequential offset or refund of infrastructure charges, an officer with the appropriate financial delegations for the proposed offset or refund amount must approve the offset or refund, prior to it being reflected in an infrastructure charges notice. This approval must be obtained in accordance with the related procedure, which includes the preparation of a memorandum setting out the basis and reasons for the calculation of the amount of the offset or refund.
- **Infrastructure Agreements** – Council is committed to negotiating infrastructure agreements in good faith, in accordance with legislative requirements. Infrastructure agreements are to be negotiated in accordance with the steps set out in the related procedure.
- **Development Fees and Charges** – The development fees and charges are to be reviewed a minimum of every four (4) years to ensure they fairly represent the costs to Council of assessing development applications and requests. Any development application fee variations must be recorded in a register, and include a formal written request and a written record with reasons for any decision to grant or not to grant the requested variation, in accordance with the related procedure. Fee variations may only be authorised by an officer with the appropriate financial delegation for the amount of the proposed variation.
- **Development Approval Compliance** – Development approval compliance audits are to be undertaken in accordance with the related procedure, with priority given to the recovery of outstanding infrastructure contributions or charges, and any development where there may be a risk to the public owing to the non-compliance (such as shopping centres, shops, medical centres and other developments with high public access). Where non-compliance is identified, the severity of the non-compliance will dictate the resulting action, whether it be Show Cause, Enforcement, Penalty Infringement Notice, or formal legal proceedings. Where infrastructure contributions have been recovered and there is no risk to public safety, certain developments will be audited upon receipt

of a complaint to the extent necessary to address the complaint, and other mechanisms such as self-audit processes may be used for low risk developments.

- **Conflicts of Interest** – Where Conflicts of Interest (potential, perceived or actual) arise in relation to development matters, the officer is to refer to the Conflict of Interest Policy and the Identifying, disclosing, managing and monitoring Conflicts of Interest for Employees Procedure, as well as the additional measures for managing a conflict of interest in the specific circumstances described below:
 - Where an officer has a significant Conflict of Interest in an application, enquiry or other development matter (for example, an application is submitted which involves a property they or an immediate family member of theirs has a financial interest in), the officer is to fill out a conflict of interest employee disclosure form on My Council and submit the completed form to People and Culture for recording on their personnel file. To manage the conflict the officer is to be removed from the matter and the application to be processed by an alternative team where possible.
 - Where an employee has identified and disclosed a Conflict of Interest, they are to continue to manage the conflict by ensuring they do not participate in the assessment of the application or in any discussion regarding the matter. Other officers are to use discretion to ensure they do not discuss the matter within proximity to the officer who has identified and disclosed a conflict.
 - Where the Section Manager would normally be required to consult or decide a matter and has a conflict of interest (and the application has not been allocated to an alternative team for processing), the conflict is to be managed by removing the officer from the matter and having the matter decided by the Branch Manager.
 - Where the Branch Manager would normally be required to consult or decide a matter and has a conflict of interest, the conflict is to be managed by removing the officer from the matter and having the matter decided by the General Manager (Planning and Regulatory Services).
 - Where the General Manager (Planning and Regulatory Services) would normally be required to consult or decide a matter and has a conflict of interest, the conflict is to be managed by removing the officer from the matter and having the matter decided by the Chief Executive Officer.
 - Where the Chief Executive Officer would normally be required to consult or decide a matter and has a conflict of interest, the conflict is to be managed by removing the officer from the matter and having the matter escalated to Committee or Full Council.
 - Any Councillor must also declare a conflict of interest in a matter as soon as they become aware of the conflict in accordance with the Councillor Code of Conduct and the *Local Government Act 2009*.
 - Where the application involves a significant conflict of interest resulting in it being categorised as a Sensitive Development Matter, the conflict is to be managed by

having the application reviewed by the Independent Decision Review Panel in accordance with the related procedure.

- **Independent Decision Review Panel** – Development application decisions for Sensitive Development Matters will be reviewed by the Independent Decision Review Panel in accordance with the related procedure. In addition, a third party review may also be sought for technical material where the Chief Executive Officer, General Manager (Planning and Regulatory Services), Branch Manager or Section Manager considers that the complexity of the technical material requires such consideration.

10. Monitoring and Evaluation

The success and effectiveness of the policy will be measured by:

- Regular reporting on assessment timeframes to ensure statutory obligations are complied with.
- Quarterly reporting on development activity in Ipswich.
- The delivery of development outcomes which are consistent with statutory requirements.
- Regular engagement with our customers.

11. Definitions

Committee means the Growth, Infrastructure and Waste Committee (or equivalent)

Conflict of Interest as per the Ipswich City Council Employee Code of Conduct, Conflict of Interest Policy, Identifying, disclosing, managing and monitoring Conflicts of Interest for Employees Procedure, means a conflict between a Council employee’s work responsibilities and their personal or private interests. A Conflict of Interest can arise from either gaining a personal advantage or avoiding a personal loss. Conflicts of interest can be real (actual) or perceived (apparent).

A real Conflict of Interest is a conflict between the employee’s duties and their private interests.

A perceived Conflict of Interest arises where a person is likely to believe an employee’s private interests could improperly influence them at work. Such a perception is judged having regard to what a fair and reasonable member of the public could be expected to believe.

Independent Decision Review Panel means a panel consisting of one or more independent expert members or other members who are selected in accordance with the related procedure.

Sensitive Development Matter means a planning development application or request of a Level 2 or Level 3 Complexity, excluding building work, plumbing work or operational work applications, involving a kind specified below:

1. Development for which the applicant or land owner is:

- (a) the Council or a commercial entity of Council, and does not relate to the provision of standard local government infrastructure and facilities such as parks (including canteens, storage sheds, lighting and other similar facilities within parks), roads, libraries, community centres or meeting rooms, art and cultural facilities (including public art), emergency services facilities, utilities or the like.
 - (b) a Councillor or immediate family member;
 - (c) a member of the Queensland Parliament or Parliament of the Commonwealth.
2. Any development application or request which is particularly contentious, controversial, or involves a significant departure from the planning scheme, as determined by the General Manager (Planning and Regulatory Services) and Chief Executive Officer, such as:
- (a) A development application or request that requires public notification and more than 50 properly made submissions are received objecting to the proposed development;
 - (b) Development which is of a Level 3 Complexity and is inconsistent with an aspect of relevant planning legislation.
 - (c) A development application or request that involves a Waste Related Activity.

Strategic Public Interest means a matter which is of strategic importance to the whole local government area, is likely to have a major impact on a significant proportion of the local government area (e.g. several suburbs).

Strategic Policy Issue means a policy matter which is likely to result in a decision precedent on a particular issue which will have a cumulative impact on a significant proportion of the local government area.

12. Policy Owner

The General Manager (Planning and Regulatory Services) is the policy owner and the Manager, Development Planning is responsible for authoring and reviewing this policy.