



# Council Policy

## Statutory Planning Applications – Referral to Council Policy

Department/Unit	Planning & Environment	First Implemented	20 October 2015	Review Date	May 2026
Origin	Coordinator Statutory Planning	Reviewed	February 2024	Version	4
Authorising Officer	Endorsement by Council	Effective From	21 May 2024	TRIM Reference	E522/E3328

### Purpose/Objective

Council, as a Responsible Authority, has powers under the *Planning and Environment Act 1987* to grant, refuse or amend applications for planning permits under the Mansfield Planning Scheme.

The purpose of this Policy is to outline appropriate processes for referring Development Plan applications and/or planning permit applications to Council for determination.

### Policy Statement

This Policy confirms that only planning permit applications and planning permit amendment applications will result in a determination by Council, where any of the following apply:

- ▶ Where five (5) or more objections are received;
- ▶ Where the dollar (\$) value of the estimated cost of development exceeds \$3 Million;
- ▶ Where the application is lodged by or on behalf of a Council employee;
- ▶ Where the application is lodged by\* or on behalf of a current Councillor, except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant.
- ▶ Where the officer recommendation is to refuse the application, except when any of the following apply:
  - Proposal is prohibited by the Mansfield Planning Scheme
  - Proposal does not comply with encumbrances, caveats and notices on Title
  - Application is for an extension of time and the tests for assessing such applications (known as the Kantor Principles, *Kantor v Murrindindi 1997*) have not been, or cannot be, met

## Mansfield Shire Council | Statutory Planning Applications – Referral to Council

- A Determining Referral Authority has directed a Refusal be issued

or

This Policy confirms that only Development Plan and Development Plan Amendment applications will result in a determination by Council, where any of the following apply:

- ▶ Which proposes a development of eight (8) or more lots;
- ▶ Where the officer recommendation is to refuse the application, except when the proposal does not comply with encumbrances, caveats and notices on Title;
- ▶ Where the application is lodged by or on behalf of a Council employee;
- ▶ Where the application is lodged by\* or on behalf of a current Councillor, except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant.

There may be examples where officers believe determination by Council is more appropriate, notwithstanding that the circumstances have not necessarily triggered the need for referral of the application to Council for determination and this will also enhance the transparency of decision making.

Council will retain its ability to ‘call up’ any application for determination and will be assisted in this regard by regular circulation of a list of newly lodged planning applications, together with the ability of Councillors to attend consultative meetings should they choose to do so.

A list of triggers for the referral of an Application to Council is attached to this Policy (appendix A).

## Definitions

Term	Definition
Council	Mansfield Shire Council
Planning Permit	a legal document that allows a certain use or development to proceed on a specified parcel of land.
Trigger	make cause to forward a Planning Application to the Council for determination.

## Scope

This policy applies to all Planning Permit, Planning Permit Amendment, Development Plan, and Development Plan Amendment Applications submitted to Council in accordance with the *Planning and Environment Act 1987*.

This policy applies to Council officers delegated under the *Planning and Environment Act 1987*.

Council has delegated many statutory planning powers under the *Planning and Environment Act 1987* to grant, refuse or amend applications for planning permits under the Mansfield Planning Scheme to Council officers.

## Responsibilities

Overall responsibility for the application of this Policy is held by the Chief Executive Officer.

All Mansfield Shire Council Officers, as delegated under the *Planning and Environment Act 1987*, are responsible for adhering to and implementing this policy.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this Policy, and are accountable for the delivery of this policy within their areas of responsibility.

The Statutory Planning Department is the owner of this policy. Any reviews of this Policy must be made in consultation with the Coordinator Statutory Planning and Manager Planning & Environment.

## References / Related Policies

- ▶ Planning and Environment Act 1987
- ▶ Mansfield Planning Scheme
- ▶ Mansfield Shire Council Instrument of Appointment and Authorisation – Planning and Environment Act 1987 (Schedule 11A)
- ▶ Mansfield Shire Council S14 Instrument of Delegation by CEO for VicSmart Applications under the Planning and Environment Act 1987

## Gender Impact Assessment

The Statutory Planning Applications – Referral to Council has considered the Gender Equality Act 2020 in its preparation but is not relevant to its content. The Policy has been assessed as not requiring a Gender Impact Assessment (GIA). The Policy is purely administrative in nature and does not benefit any one gender group over any other.

## Implementation

This Policy is effective from 21 May 2024.

## Review Date

This Policy is to be reviewed by May 2026.

## Authorisation to Implement Policy

Signed:  \_\_\_\_\_

Councillor

Witnessed:  \_\_\_\_\_

Chief Executive Officer

Approval dated: 21 May 2024

**Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.**

## Appendix A

### Triggers for the Referral of a Planning Application to Council for Determination

Type of application	'Trigger' for referral of the application to Council
<p><b>Development Plan applications triggered by a Development Plan Overlay (DPO) in the planning scheme <u>QR</u> applications to amend an approved Development Plan</b></p> <p><i>*Except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant</i></p>	<ul style="list-style-type: none"> <li>• Proposals to develop land for eight (8) or more lots; and/or</li> <li>• Where officers recommend Refusal of an application; and/or</li> <li>• Where the application is lodged by* or on behalf of a Council employee; and/or</li> <li>• Where the application is lodged by* or on behalf of a current Councillor</li> </ul>
<p><b>Planning Permit Applications</b></p> <p><i>*Except where the application is lodged by a Councillor acting as a consultant on behalf of another person/applicant</i></p>	<ul style="list-style-type: none"> <li>• Where five (5) or more objections are received; and/or</li> <li>• Where the dollar (\$) value of the estimated cost of development exceeds \$3 Million; and/or</li> <li>• Where the application is lodged by or on behalf of a Council employee; and/or</li> <li>• Where the application is lodged by* or on behalf of a current Councillor</li> <li>• Where officers recommend Refusal of an application, except where:-             <ul style="list-style-type: none"> <li>- the use and or development proposed by an application is prohibited by the Mansfield Planning Scheme</li> <li>- the application is for an extension of time to a permit but the tests for assessing such applications (known as the Kantor Principles) have not been, or cannot be, met</li> <li>- Council has been directed to refuse an application by a determining authority</li> </ul> </li> </ul>