

SCS-057 Calling in Planning Applications Policy

TRIM Reference: D22/22705 Due for Review: September 2024

Responsible Officer: Manager Planning and Compliance

1. Purpose

- 1.1. This policy outlines the principles and circumstances for when it is appropriate for the Council to call in the determination of a planning application.

2. Policy Principles

- 2.1. Council is committed to the following principles in applying this policy:
 - 2.1.1. Council's priority is to the municipal wide community interest when making a decision to call in a Planning Application and the grounds outlined below in section 4.6 of this policy.
 - 2.1.2. The reasons for the decision to call in a Planning Application will be made available.
 - 2.1.3. Council will consider all interested parties when making the decision to call in a Planning Application

3. Scope

- 3.1. This policy applies to all Planning Applications as defined within this policy.

4. Policy

- 4.1. Councillors may decide to call in a Planning Application for consideration and determination by the Council as outlined in section 4.6 below of this policy.
- 4.2. Where there is wide public interest that would be better served by having a Planning Application considered and determined by the Council, Council Officers may refer that Planning Application to Council.
- 4.3. Significant Planning Applications will be reported to a Council meeting where there is municipal-wide interest.

4.4. Councillors call in decision

- 4.4.1. A Councillor can seek the support of at least two other Councillors (total of three Councillors) to request the Chief Executive Officer (CEO) to refer a Planning Application to the Council for a decision based on one of the grounds under 4.6 below.
- 4.4.2. A briefing will be provided to Councillors as required, prior to the Councillors calling in the Planning Application.

4.5. Council Officers referring a Planning Application to Council

- 4.5.1. Council Officers can also report to the Council on planning applications likely to be of wide community interest. In this instance, Council Officers will prepare a report on the Planning Application to a Council meeting for a determination. The report to the Council will include the reasons why the application is being referred to the Council for a decision in accordance with this policy.

4.6. Grounds for calling in a planning application

4.6.1. The grounds for calling in an application are:

- 4.6.1.1. Receipt of significant objections / submissions highlighting wide community or public interest in the application;
- 4.6.1.2. The decision on the Planning Application could have a wide community impact beyond the more immediate neighbourhood, where that impact could result in a long term environmental, economic or social impact on the Municipal Community;
- 4.6.1.3. There is conflicting policy or an absence of clear policy which may have future decision making and policy implications (e.g. no policy exists to guide decision making on the matter or two separate policies guiding decisions have a direct conflict);
- 4.6.1.4. The application is of regional, state or national significance and the possibility of referral of the Planning Application to the Minister for Planning or a peak advisory body such as the Great Ocean Road Advisory Committee (GORSAC) is relevant to the Planning Application.

4.7. Matters to be considered in the decision to call in a planning application

4.7.1. In deciding to call in a Planning Application, Councillors must have regard to:

- 4.7.1.1. The impact of delaying the decision on the applicant and the community and whether it is likely the matter could proceed to the Victorian Civil and Administrative Tribunal (VCAT);
- 4.7.1.2. Council's potential liability for the VCAT application lodgement fee incurred by the applicant if the matter was appealed due to Council's failure to determine. Councillors may consider whether there is an opportunity to request a Special Council Meeting so the application can be determined by Council within the prescribed timeframe;
- 4.7.1.3. If a consultation process for a Planning Application has commenced then in considering a request for the application to be called-in, Councillors should consider whether all parties have genuinely first sought to achieve a mediated outcome;
- 4.7.1.4. The Planning Application has not been through a planning consultation meeting and the Hearing of Submissions process would provide an alternative way of hearing from the community.

4.8. Hearing from the Community

4.8.1. When a Planning Application has been called in for a Council decision, Council will hold a Special Council meeting for Hearing of Submissions to provide an opportunity for interested parties to present to the Council and for Councillors to ask questions.

4.8.2. The opportunity to hear verbal submissions or presentations by parties will be in advance of determining a Planning Application at a Council meeting. The Hearing of Submissions meeting will be scheduled within a reasonable timeframe for the Council to contemplate the matter before being reported to the Council for a decision.

4.8.3. The Special Council meeting for Hearing of Submissions will:

- 4.8.3.1. Provide fair and reasonable opportunity for both the applicant and objector and submitters to be heard;
- 4.8.3.2. Provide an opportunity for Councillors to ask questions of all parties to help inform decision making.

4.8.4. The Special Council Meeting for Hearing of Submissions is not part of the statutory role in determining Planning Applications under the Planning and E Act but assists in providing

relevant information when decisions are made by the Council. A decision on the Planning Application will not be made at the Hearing of Submissions meeting.

4.9. Council determination of the Planning Application

4.9.1. Once the Hearing of Submissions has been undertaken a report will be provided to Council at the next Council meeting for consideration and determination of the Planning Application.

5. Local Government Act 2020 Principles

Principles	Applicable to policy	If yes, provide details
Governance Principles (Consideration of the Governance Principles under s.9 of LGA 2020)	Yes	<i>The decision to call in a planning application aligns with the priority being given to achieve the best outcomes for the municipal community</i>
Community Engagement (Consideration of Community Engagement Principles under s.56 LGA 2020)	Yes	<i>The policy references the practise for hearing of submissions when those concerned participate in a Special Council Meeting for the Hearing of Submissions. This acknowledges the common law doctrine of natural justice</i>
Public Transparency (Consideration of Public Transparency Principles under s.58 of LGA 2020)	Yes	<i>The decision to call in a planning application needs to be made available to the public. This policy makes provision for this.</i>
Strategies and Plans (Consideration of Strategic Planning Principles under s.89 of LGA 2020)	No	
Financial Management (Consideration of Financial Management Principles under s.101 of LGA 2020)	No	
Service Performance (Consideration of Service Performance Principles under s.106 of LGA 2020)	Yes	<i>The development of a policy will improve the delivery and understanding of an important aspect of the planning service to the community</i>

6. Definitions

Key term	Definition
Council	Means Surf Coast Shire Council, being a corporate body constituted as a municipal Council under the Local Government Act 2020
Council Officer	Means the Chief Executive Officer and staff of Council appointed by the Chief Executive Officer
Interested Party	Means a person who is responsible for lodging a planning application with Council, a person lodging an objection or submission to a planning application or the owner of land relating directly to the planning application

Municipal Community	includes— (a) people who live in the municipal district of the Council; and (b) people and bodies who are ratepayers of the Council; and (c) traditional owners of land in the municipal district of the Council; and (d) people and bodies who conduct activities in the municipal district of the Council;
Planning Application	Means an application for a planning permit made to the Council in accordance with section 47 and 72 of the Planning and Environment Act 1987. It does not include VicSmart planning applications which must be determined by the Chief Executive Officer or a delegated officer.
Planning and Compliance Department	Council department responsible for delivery of Statutory Planning Services to the Surf Coast Community
Responsible Authority	Means Surf Coast Shire Council in its role as Responsible Authority under the Planning and Environment Act 1987. In this policy this is the role of Council when making decisions on planning applications that have been lodged with the Council. Most planning applications are determined by Council officers under the delegation afforded to them by Council to act as the Responsible Authority

7. Related Procedure

MPR-011 Calling in of Planning Applications to Council

8. References

Local Government Act 2020

Planning and Environment Act 1987

Surf Coast Shire Governance Rules

Councillor Code of Conduct (SCS-002).

SCS- 027 Planning Consultation Policy

9. Document History

Version	Document History	Approved by – Date
1	<i>New Policy</i>	<i>Council Resolution 27 September 2022</i>