

What you need to know about the Development Application process

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Purpose

This sheet provides an explanation of the development assessment process. It explains the determination process, answers frequently asked questions about the role submissions have in the process and will help you understand what can appear to be a very technical and complex process.

What matters will be considered in assessing an application?

Council is obliged to consider Development Applications (DA's) within a legal framework established by the [Environmental Planning and Assessment Act 1979](#) (the Act), which includes:

- Any relevant controls, standards and provisions set out in State, Regional and Local Environmental Plans (LEP's) and policies. In the Newcastle Local Government Area, the most common of these is the [Newcastle Local Environmental Plan 2012](#)
- The relevant controls and provisions of the [Newcastle Development Control Plan 2012](#) (DCP). The DCP contains more detailed controls than the LEP and is a guideline, as opposed to the LEP which has statutory weight. This information can be viewed and downloaded from our [website](#)
- Any submission made by or on behalf of residents during the notification process
- The assessment considerations under [Section 4.15](#) of the Act

While there is an expectation that DA's should comply with Council's planning controls and guidelines, some departures may be acceptable where it can be justified that the departure or non-compliance:

- Results in a development that on its merits still generally achieves the stated aims and objectives of the control that is proposed to be varied
- Will not reasonably result in any greater amenity impacts on surrounding properties than a compliant development

What are relevant matters for consideration in a submission?

The planning framework provides landowners with certain entitlements, for example the zoning of the land will permit certain land uses or activities to be undertaken on the land.

Matters raised in submissions should relate to the impact that a development may have on property, street or community, such as bulk, scale, privacy and solar access impacts, etc.

If you choose to make a submission in objection to a development, the reasons for the objection should relate specifically to the current proposal and not to existing or historical concerns. The form and content of the submission should be prepared in accordance with [Section 8.00.03](#) of the Public Participation component of the DCP.

Existing issues are generally not matters for consideration.

Thinking about making a submission?

When assessing a development application Council will publically notify some applications. Not every DA is publically notified. Submissions received in response to notification will be considered against the statutory requirements and the reasonable development rights of the applicant.

If you are considering making a submission in support of, or in objection to a proposed development and require further advice, please contact our Duty Officer on 4974 2000 between 8:30am and 4:00pm to clarify any matters that may not be clear to you.

However, you will need to form your own opinion as to whether to lodge a submission and the reasons for any such submission.

Is my submission confidential?

Any submission made, may be obtained under [The Government Information \(Public Access\) Act 2009](#) (GIPA) and is considered 'Open Access Information'. 'Open Access Information' is made available to the public and as such is NOT confidential and will be placed with documents relating to the application on Council's website.

Council will remove personal information from the submission it provides to the public in accordance with the [Information and Privacy Commission's](#) (IPC) guidelines.

Council will release your name and property address, but withhold some other types of personal information.

How to make a submission

Make your submission in writing.

1. Quote the DA number and assessing officers' name at the beginning of your submission. This number appears near the top of any notification letter.
2. Clearly state the reasons why you object to or support the proposed development. Important points can be highlighted using dot points and/or headings.
3. Include your name, postal address, email address and daytime telephone number. This will assist the assessment officer should clarification be required regarding any matters raised in your submission.

Send the submission by post, [e-mail](#) or deliver it personally to Council. If using the post, make sure you allow sufficient time for delivery by 5.00pm on the closing date for submissions.

More information is available on Council's [website](#) about the appropriate content of submissions.

What happens when a submission is received?

If you make a written submission, an acknowledgement letter will be sent to you and a copy of your submission will be placed on Council's website. The matters that are relevant to the proposed development will be taken into account when determining the application. Matters that are not directly relevant will not be taken into consideration in the DA assessment.

The assessment officer assigned to the DA will assess the application and consider each submission. If the assessment officer considers it necessary, they may contact you to request access to your property to view your concerns (so please always provide your contact details).

It is noted that Council does not respond to specific or individual concerns raised in submissions before determination. After the application is determined, you will be notified in writing of the outcome.

Will amendments be made to the application?

Amendments to an application may be made by an applicant before the application is determined, so as to resolve issues raised either by assessment officers, external agencies or objectors or both. Amendments can only be made with the permission of Council officers.

As a rule, amendments are not requested or accepted where a DA is fundamentally unacceptable. If it is agreed to accept an amendment to a DA before it is determined, the amendments will only be notified where the amendments are likely to have a greater or different environmental impact than the original proposal. This discretion rests with Council.

Who will determine the application?

Applications submitted to Council are determined by either one of two processes;

1. Council (Council Officer or the Development Applications Committee) or
2. The Joint Regional Planning Panel (JRPP).

Note: Letters advising the public notification of an application and Council's web site will specify the proposed determination process.

Determinations by Council are made by either:

- a) A **Council Officer**, the majority of applications are determined under delegation by Council officers, or
- b) The **Development Applications Committee** (DAC), this is a committee of Councillors.

Applications are referred to DAC for determination where:

- the estimated cost of the proposed development exceeds \$10 million or
- there have been 25 or more written objections received from independent parties **and** the concerns raised are unable to be resolved or be otherwise addressed by means of appropriate conditions of consent. Multiple submissions received from the same household will be considered as a single submission, or
- the proposed development involves significant conflict with Council's adopted objectives or policies, or
- two or more Councillors request in writing that the application be determined by the DAC.

Applications referred to the JRPP are currently defined under [Schedule 7 of the State Environmental Planning Policy \(State and Regional Development\) 2011](#). Council is responsible for the processing of the application including the public exhibition, preparation of an assessment report and the issuing of the Notice of Determination.

Additional information on the application and the functions of the JRPP can be obtained from their [website](#).

If you have made, or will be making a political donation or gift and are making a submission read this, if not proceed to the next question:

Political donations / gifts and disclosure statements

The *Act* requires you to disclose any 'reportable political donations' and 'gifts' made by yourself or any 'associate' within the period commencing two years before the submission is made and ending when the application is determined.

To determine if you need to make a disclosure, Council has prepared a [Political Donations and Gifts Disclosure Statement](#), incorporating explanatory information, which is available on Council's website or at Councils' City Administration Centre.

The following information is to be included in the statement:

- all reportable political donations made to any Councillor of Council and
- all gifts made to any Councillor or employee of Council

Note: Failure to disclose relevant information or to make a false disclosure statement is an offence that may be punishable by the imposition of a penalty, as per the relevant legislation.

Is my disclosure confidential?

No, Political Donations and Gifts Disclosure Statements are not confidential and will be publicly available for viewing on Council's website.

Can I make a submission after the closing date?

Submissions received after the notification closing date, may not be considered. If you require an extension to the time period nominated, you must contact the nominated officer in writing before the due date to determine whether an extension will be granted.

Extensions will only be granted in exceptional circumstances and will be for a maximum of 7 calendar days.

Can I make a presentation to Councillors or the JRPP, before the application is determined?

The process for applying to make a presentation to Councillors or the JRPP is different. The details on the process are outlined below.

DAC and the Public Voice Policy

If an application is to be referred to the DAC for determination, Council's [Public Voice Policy](#) provides an opportunity for parties to directly address a committee of councillors regarding a proposed development.

Public Voice is only available when a DA is being referred to DAC for determination.

Should you wish to make an application under the Public Voice Policy, contact Council on 4974 2000, prior to the end of the notification period. The [Public Voice Application](#) should be lodged with your written submission and be received within the notification period.

The JRPP

JRPP meetings are conducted in public, unless otherwise directed by the Minister or the Chairperson. Persons (or persons on behalf of bodies) who make a submission on a matter before the JRPP may request to address the Panel. Requests can be made to the Panel Secretariat prior to the meeting by phoning (02) 9383 2121 or [email](#).

Is there a right of appeal to a decision?

The *Act* does not provide parties who lodge written submissions a right of appeal to the Land and Environment Court on the merits of Council's determination of a DA other than in respect of 'Designated Development'.

Submissions can be lodged either:

1. By email
2. In person at the Customer Enquiry Centre, located on the ground floor of 282 King Street, Newcastle.
3. By mail Newcastle City Council, PO Box 489 Newcastle 2300.

We are open for business Monday to Friday from 8.30am to 5pm (in person) and 7am to 6pm (phone enquiries).

How to contact us:

Phone: (02) [4974 2000](tel:49742000)

E-mail: mail@ncc.nsw.gov.au

Web: www.newcastle.nsw.gov.au