



## **POLICY**

### **COMPLIANCE WITH CONDITIONS OF PLANNING APPROVAL**



## COMPLIANCE WITH CONDITIONS OF PLANNING APPROVAL

**To achieve and maintain high development standards within the municipality by ensuring compliance with Scheme provisions and Conditions of Planning Approval.**

**To define Council policy for the handling of cases of non-compliance with Scheme provisions and conditions of approval.**

Adopted:	25/03/1998 #584
Last reviewed:	27/09/2006 #519 28/04/2010 #105 <b>11/07/2012 #163</b>
Legal Authority	Town Planning Scheme #2 - Planning Policies Clause 8.6 Justices Act

### Policy:

1. That each Approval to Commence Development (whether granted by resolution of Council or by officers of Council, under delegated powers) shall specify a period within which compliance with conditions of approval must be met.
2. Where such conditions of approval have not been complied within the specified period, the landowner should be requested (within fourteen (14) days) to provide a progress report and explanation as to why the conditions of approval have not been met. A new extension period may then be set but no more than 20 normal working days.
3. Where such conditions of approval have not been complied within the extension period (or if an extension period was not granted), the landowner should be requested to (within fourteen (14) days) "show cause", as to why Council should not commence legal action.
4. A report to Council shall then be prepared by the appropriate council officer including the landowner's response and all other relevant information. The matter shall be considered by Council prior to any further action. Where the landowner has not complied with the conditions or shown cause why Council should not prosecute then Council by resolution shall undertake legal action.
5. In the case of "one off" breaches of Town Planning Scheme No 2, or non compliance with conditions of Planning Approval, Council shall commence legal action within six (6) months of the date of the offence in order to meet the time limitation imposed by the Justices Act.
6. In the case of "ongoing" breaches of the scheme, or non compliance with conditions of approval, Council shall specify the time at which legal action will be commenced (subject to the limitations imposed by the Justices Act) and may delegate the power to Commence Legal Action to an Officer of Council.
7. Time limits for compliance with Scheme Requirements or Conditions of Planning Approval and prosecution timing shall be in accordance with Table 1.
8. Council officers shall refer to the planning department procedures for further details on the process

**Interpretations:**

“One off” breaches of Town Planning Scheme No 2 and/or Conditions of Planning Approval - means non compliance with a scheme requirement or condition of Planning Approval which requires immediate compliance as an integral part of building or land use. (Examples - minimum setbacks, minimum and maximum areas of building, alterations of ground levels).

“Ongoing” breaches of Town Planning Scheme No 2 and/or conditions of Planning Approval - means non compliance with a Scheme requirement or condition of Planning Approval which requires ongoing compliance. (Examples - vehicle parking, landscaping, maintenance of buildings).