

POS	RETROSPECTIVE DEVELOPMENT APPLICATIONS	PSPD26
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POSITION STATEMENT CODE:	PSPD26
DIRECTORATE:	Planning & Development
BUSINESS UNIT:	Planning & Development
SERVICE UNIT:	Statutory Planning
RESPONSIBLE OFFICER:	Manager, Statutory Planning
FILE NO.:	182/002
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DATE LAST REVIEWED:	10 December 2015
ATTACHMENTS:	N/A
VERSION NO.	4

Dates of Amendments / Reviews:		
DAPPS Meeting:	27 September 2012	26 February 2015
	22 August 2013	26 November 2015
OCM:	11 October 2012	12 March 2015
	12 September 2013	

BACKGROUND:

There are developments within the district, where development approval has not been granted prior to being commenced and yet would otherwise comply with the City's development controls including Town Planning Scheme No 3 and/or the City's Policies adopted under the Scheme.

PURPOSE:

The purpose of this position statement is to provide guidance on the approval of an existing development or use of land that would otherwise comply with the Scheme.

POSITION:

Procedure to be followed in relation to the issue of retrospective planning approval:

- (1) It must be substantiated that the existing development or use of land complies with the provisions of the Scheme. This includes but is not limited to standard development requirements (eg car parking, landscaping etc.), Council Policy and the Residential Design Codes where applicable (and any other relevant matter in the opinion of the Council).
- (2) Council shall generally take no action regarding a breach of the Scheme, where the development subsequently conforms to the provisions of the Scheme.
- (3) Where a proposal is for an existing development or use, which does not comply with the provisions of the Scheme a written notice is to be issued

advising the owner of the unlawful development, providing 60 days to cease the unlawful use or remove the unlawful development (works).

- (4) Where the landowner has failed to comply with the 60 day notice issued under 3. above, the Council shall:-
1. proceed to refuse the application for planning approval; and
 2. initiate legal action against the owner of the land in accordance with Position Statement "Development Compliance Process" except that the 60 day notice issued under this Policy shall be deemed to be equivalent to the first warning letter..
- (5) Where a Notice of Refusal is issued, the applicant is to be advised that an application for review (appeal) may exist with the State Administrative Tribunal if lodged within 28 days from the date of receipt of the decision. Any appeal should be made in accordance with Part 14 of the Planning and Development Act, 2005.