

POS	OUTSTANDING DEVELOPMENT CONDITIONS	PSPD30
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POSITION STATEMENT CODE:	PSPD30
DIRECTORATE:	Planning and Development
BUSINESS UNIT:	Planning and Development
SERVICE UNIT:	Statutory Planning Services
RESPONSIBLE OFFICER:	Manager, Statutory Planning
FILE NO.:	182/002
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DATE LAST REVIEWED:	14 December 2017
ATTACHMENTS:	N/A
VERSION NO.	2

Dates of Amendments / Reviews:	
DAPPS Meeting:	26 November 2015 23 November 2017
OCM:	

BACKGROUND:

There are developments within the district which have not complied with their conditions of approval. These conditions need to be enforced.

In recognition of this, Part 9 of Town Planning Scheme No. 3 (TPS 3) gives Council the power to consider matters appropriate in the decision making of development applications. This may include refusal to issue an approval for the further use or development of the land to which the conditions of a previous approval are outstanding.

PURPOSE:

The purpose of this Position Statement is to establish a process to be followed prior to the determination of an application by the City where an existing development does not comply with one or more conditions of a previous approval.

POSITION:

- (1) The breach in conditions relating to development on the land must be adequately substantiated, and that the landowner/occupier has been given the opportunity to comply with any outstanding conditions relating to a previous approval for the land.

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Procedure to be followed:

1. Following the receipt of a Development Application for land on which development already exists, the application shall be referred to the Development Compliance Officer or other Planning Officer.
2. The Development Compliance Officer or Planning Officer shall conduct an inspection of the property and determine if any conditions relating to the existing development are outstanding.
3. Where it is found by the Officer that a breach of any condition applying to a current approval exists, a written notice shall be issued advising the owner of the outstanding conditions, giving the owner 28 days to bring the existing development into compliance.
4. The Application for Development Approval under consideration shall not be assessed under TPS 3 until an inspection of the lot has taken place on or before the expiration of the 28 day notice period, to confirm that the existing development complies with all conditions specified in the notice.
5. In the event that at the expiration of the 28 day notice period, the existing development remains non-compliant, the City shall issue a Notice of Refusal under TPS 3.
6. Where the landowner has not complied with the notice issued under point 3 above, the City shall initiate legal action against the owner/ occupier of the land in accordance with Position Statement "Development Compliance Process".
7. Where a Notice of Refusal is issued, the applicant is to be advised that a right of appeal via the State Administrative Tribunal (SAT) exists against the decision of the City to refuse the application.