



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

3rd February 2009

DSDS1	CORRUPTION MANAGEMENT IN DEVELOPMENT ASSESSMENT
FILE: 584	RBP (NRN) {Folio No. *}

SUMMARY:

Reporting on current measures used to reduce the potential for corrupt conduct in the development assessment process at Kempsey Shire Council.

◆◆◆◆◆

BACKGROUND:

At its meeting of 16th December 2008, Council resolved:-

"That the Director Sustainable Development Services submit a report to Council in February 2009 detailing matters involving the handling of DAs including SEPP1 objections."

In early 2008 the Independent Commission Against Corruption (ICAC) handed down a report relating to the Wollongong City Council. The report found evidence of systemic corruption relating to the Council's dealings with a developer.

The significance of the findings that lead to the Council being sacked was that corrupt conduct, including conduct likely to be found to be criminal conduct, was occurring across the organisation involving councillors, senior staff, middle management and a planning officer.

It was apparent that there were no management measures, either implicit or explicit, to detect or prevent corrupt conduct. As a result, at least two developments involving significant departures from development standards were approved without reference to the elected councillors.

Development Assessment Procedures at Kempsey Shire Council

Kempsey Shire Council has a range of formal and informal management measures which act to detect and reduce the potential for corrupt conduct in its development assessment processes.

1. A weekly Development Assessment Group (DAG) meeting is held whereby DAs that require input from different sections within SDS and Council are discussed, issues identified and internal referrals made. Agendas and minutes for the DAG are also circulated to the

GM and directors. Whilst the DAs are assigned to officers with delegated authority to approve, the broader knowledge of the group acts to prevent any non-complying DAs from being approved without being referred to Council to determine.

2. Neighbour notification lists are prepared by CFC staff in accordance with Council's Public Notification Policy that are forwarded to the Managers and administration staff to authorise advertising. This system of internal checking of a list prepared externally of SDS minimises the opportunity for an officer to "slip" any DAs through the system.
3. A system for peer review of DAs has been introduced for quality control purposes which also reduces opportunities for corrupt conduct.
4. Staff do not have delegated authority to approve applications under SEPP 1, except where the prior concurrence of the Department of Planning has been obtained or Council has been advised concurrence may be assumed. (See "*SEPP 1 Applications*")
5. Staff do not have delegated authority to approve applications where objections have been received and the proposal does not comply with all relevant standards or where an objection cannot be resolved with the objector.
6. Planners and building inspectors are not assigned to any specific area with DAs assigned on the basis of workloads. This reduces the potential for developers and officers to set up informal systems outside of Council's systems and procedures.
7. In respect to Development Compliance, a register has been created which is accessible from the computer desktop by all staff, including managers and Directors which details the status of all current compliance matters.
8. Many compliance matters are also logged as complaints under the Work Orders system from which reports are generated, thereby preventing officers from "turning a blind eye" to non-compliances.
9. All DA and CC approvals are reported to Council on a monthly basis with the report generated automatically through the computer DA Register. This was identified by the DLG in the Promoting Better Practice Review as an area where Council exceeds reporting practices of other councils and councillors often take the opportunity to ask questions and obtain details of approvals.

SEPP 1 Applications

As stated, staff have delegation to approve applications under SEPP 1 where the Director-General of Planning has advised that concurrence may be assumed. Concurrence may be assumed: -

- For rural allotments within 10% of the applicable standard, provided the variation does not apply to more than one allotment.

- For boundary adjustments where lots are not held in common ownership and no new entitlements are created.
- For all urban standards.

Whilst the various checks and balances act to prevent the misuse of delegations, the potential theoretically exists for an officer to misuse delegations to allow substantial departures from urban development standards. However, this potential is further reduced by Council's DCPs which compliment the LEP with any variation required to be reported to Council for determination

Upon gazettal of the proposed Standard LEP, SEPP 1 will cease to apply with any variation to a standard by more than 10% to be prohibited.

It is recommended that Council develop a policy relating to the Development Standards following commencement of the new Standard LEP expected in 2009.

RECOMMENDATION IMPLICATIONS:

- ***Environmental***

Nil

- ***Social***

Nil

- ***Economic (Financial)***

Nil

- ***Policy or Statutory***

Nil

RECOMMENDATION:

- A. That the information be noted.
- B. That Council develop a policy relating to development standards following commencement of the new standard LEP.

.....
R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES