



**COUNCILLOR NOTIFICATION OF  
IMPENDING LEGAL ACTION OR  
SIGNIFICANT OR SENSITIVE  
DEVELOPMENT PROPOSALS PROCEDURE**

**Document No: A4305968**

**Procedure No: PD-01**

**1. Objective:**

This procedure has been developed in order to establish guidelines for the notification of Councillors of impending legal action in respect to planning and development matters and significant or sensitive development proposals.

**2. Regulatory Authority:**

*Local Government Act 2009- Sub Delegation – Commencing and Settling Legal Proceedings (P&D) and Council policy for Settlement of Planning and Development Appeals.  
Planning and Environment Court Act 2016 Sub-delegation – Local Government*

**3. Scope:**

This procedure outlines the processes relevant to notifications to Councillors regarding both Planning and Development related Significant Legal Actions and Significant or Sensitive Development Proposals. The scope of each of these is as follows:

- Significant Legal Action: The legal processes are such that there is often a significant time lapse between Council's determination on a matter and commencement of legal action on a particular issue and the time that the matter is actually heard by the Courts. Furthermore, legal action being taken against Council or action in which Council is involved may occur in a relatively short time that makes formal advice to Council impractical. This procedure is to ensure that the relevant Councillors are made aware of impending legal action in respect to planning and development matters prior to any Court hearing.
- Significant or sensitive development proposals: Significant or sensitive development proposals are often mooted or discussed with Council officers well before a development application is actually lodged with Council. This procedure is to ensure that the relevant Councillors are aware of impending significant or sensitive development proposals prior to and subsequent to any application being lodged.

**4. Procedure:**

**4.1 Previously Determined Legal Actions**

- (a) Following a Council determination to take legal action on a particular issue, the matter will be referred to the City Solicitor.
- (b) The City Solicitor will undertake whatever preliminary legal actions are necessary, such as lodgement of an entry of appearance.

- (c) When the matter has been set down for a Court hearing, the City Solicitor will advise the relevant department head, branch manager and team coordinator who will ensure that the relevant divisional Councillor and the relevant Committee Chairperson is notified of the details of the impending court hearing. The team coordinator will update Council's corporate pathway information system such that the notes associated with the legal action reflect the dates of the Court hearing.
- (d) Following the Court hearing and the subsequent determination, the City Solicitor will advise the relevant department head, branch manager and team coordinator of the outcome of the court action, and the Team Co-ordinator will then advise Councillors of the determination.

#### 4.2 Other Significant Legal Action

- (a) When recommending legal action or when receiving advice of impending legal action, the relevant department head shall determine whether or not such action is likely to have a significant impact on the Council.
- (b) If it is determined that such action is likely to have a significant impact on the Council then the department head, branch manager or team coordinator will notify the relevant divisional Councillor and the relevant Committee Chairperson of the details of the impending court action and continue to advise the Councillors of any on-going advice or information as the situation progresses, as deemed necessary or as required pursuant to relevant policies and procedures relating to the resolution of appeals and settlement of planning and development appeals.

#### 4.3 Significant or Sensitive Development Proposals

- (a) As soon as possible, after learning of a significant or sensitive development proposal, the relevant department head, branch manager or team coordinator will notify the divisional Councillor and the relevant Committee Chairpersons of the details and status of the proposal.
- (b) When undertaking notification, the Councillors should also be advised of the confidentiality of the proposal if required.

### **5. Definitions:**

- Significant Legal Action: means any legal action for which Council has previously determined to take legal action or such action that in the opinion of the relevant department head, having regard to the nature of the action, may have a significant impact on the Council from a planning and development perspective.
- Significant or sensitive development proposal: means any development proposal deemed to be significant or sensitive by the relevant delegate.

### **6. Procedure Review and Revision:**

The Development Planning Manager is responsible for the review and revision of this procedure.

<b>Date of Approval:</b> 4 August 2017
<b>Title of Manager:</b> City Planner
<b>Date to be Reviewed:</b> 4 August 2019