

Trim Container	FOL/17/1007
First Issued / Approved:	26/11/2013
Last Reviewed:	09/05/2017
	C090517/747
Next Review:	30/06/2021

**1. PREAMBLE**

Council has an obligation to ensure its Development Plan remains relevant and up to date to enable the City of Holdfast Bay to develop in an orderly and effective manner, and ensure that potential conflicts and impacts from development are minimised. High quality development also contributes to the wellbeing, prosperity and general amenity of the City.

Under Sections 24 and 25 of the *Development Act 1993*, only the relevant Minister or a Council can prepare a Development Plan Amendment (DPA) to amend a Development Plan. There is no mechanism for a private entity or other third party to initiate or make changes to a Development Plan.

A private entity can, however, enter into an agreement with the Minister or Council for the preparation of a specific DPA where all associated costs are covered by the private funder, but the preparation of the DPA remains the responsibility of Council and the Minister.

**1.1 Background**

A privately funded DPA refers to when a third party funds the investigation work required to change Development Plan zoning and/or policy, and Council (or the Minister) undertakes the preparation of the DPA in accordance with its obligations under the *Development Act 1993*.

Privately funded DPAs are a legitimate model that may be used to expedite and resource the preparation of a DPA, particularly where:

- a. its preparation has not been budgeted for or identified as a priority by the Minister or Council through the periodic Development Plan Review process under Section 30 of the *Development Act 1993*, and/or
- b. policy or rezoning investigations relate to a significant area or parcel of land that is under single ownership or presents substantial opportunity for amalgamation of land to achieve a coordinated development outcome.

**1.2 Purpose**

The purpose of this policy and its accompanying procedure is to guide Council in the assessment and processing of requests from private entities or third parties to undertake privately funded DPAs in order to ensure openness and transparency in the process, well considered and consistent decision making and that Council meets its obligations under the *Development Act 1993*.

# PRIVATELY FUNDED DEVELOPMENT PLAN AMENDMENTS POLICY

## 1.3 Scope

This policy applies when a private entity or third party seeks to fund investigations required for Council to initiate or make changes to the Holdfast Bay (City) Development Plan as part of a privately funded DPA in the City of Holdfast Bay.

## 1.4 Definitions

*Development Plan* is a document that contains the planning controls that guide what can and cannot be developed in a council area. Planning authorities use these planning controls to assess new development proposals.

*Development Plan Amendment (DPA)* is a document that describes proposed changes to a Development Plan. The DPA process involves a series of stages and approvals, and includes undertaking investigations to inform the proposed zoning or policy changes.

*Statement of Intent (SOI)* is a document that outlines the scope, timing, consultation requirements and nature of investigations to be carried out in preparing a Development Plan Amendment. Council is required to prepare a SOI under Section 25(1) of the *Development Act 1993* to reach agreement with the Minister for Planning to initiate a Development Plan Amendment.

*Private funder* means one or more private persons or organisations proposing to fund the undertaking of a Development Plan Amendment where they may benefit from any changes to zoning or development policies resulting from the Amendment.

*Development Plan Review* is a process required under Section 30 of the *Development 1993*, whereby all councils must periodically review their Development Plan at least every five years to ensure it remains up to date and aligns with the State's Planning Strategy.

## 1.5 Strategic Reference

Placemaking: Creating vibrant and safe places

Placemaking: Developing walkable connected neighbourhoods

Placemaking: Building character and celebrating history

Placemaking: Housing a diverse population

Culture: Supporting excellent, efficient operations

## 2. PRINCIPLES

- 2.1 Council's ability to update and amend its Development Plan is subject to financial and resource availability, and agreement with the Minister for Planning on a program of Development Plan Amendments resulting from periodic Development Plan reviews.

## PRIVATELY FUNDED DEVELOPMENT PLAN AMENDMENTS POLICY

- 2.2 Council acknowledges that it may be approached from time to time by private entities or third parties to expedite rezoning and policy investigations that have not been identified, prioritised and/or budgeted for through the Development Plan Review process.
- 2.3 In considering requests to initiate and prepare privately funded DPAs, Council will ensure compliance with all statutory processes and obligations under the Development Act 1993. This will include identification of personnel who will provide professional advice to Council on any agreed DPA for the purposes of section 25(4) of the *Development Act 1993* and its Regulations, and assurance that no-one directly involved in the preparation of the DPA has a conflict of interest.
- 2.4 Preparation of any agreed privately funded DPAs will remain the responsibility of the Council, with the final version of the DPA to be determined by the Minister responsible for administering the *Development Act 1993*.
- 2.5 A legal instrument in the form of a Deed of Agreement will be required to be entered into between Council and any private funder. The Deed will outline the heads of agreement and legal procedures, including the roles of the parties, legal requirements and procedures, and project and financial management.
- 2.6 This Policy is supported by a Procedure document that outlines the process that Council will follow for considering requests for privately funded DPAs, including strategic (and other) criteria, legal and financial arrangements, and project management and procurement of independent advice to meet legislative requirements and ensure openness and transparency in the process.

### 3. REFERENCES

#### 3.1 Legislation

- *Development Act 1993*
- *Development Regulations 2008*
- *Local Government Act 1999*

#### 3.2 Other References

- Privately Funded Development Plan Amendments Procedure.