

CH 1.2 NOTIFICATION OF DEVELOPMENT PROPOSALS

1.0 INTRODUCTION

1.1 Objectives of this Chapter

The aim of this Chapter is to identify requirements for the notification and advertising of development and other applications by:

- enabling potentially affected persons to be notified of development applications and approvals;
- enabling consideration of comments from potentially affected persons;
- assisting Council's, or any other relevant Consent Authority's, assessment of development proposals; and
- identifying the administrative procedures for notification of applications and consents.

1.2 Application of this Chapter

In circumstances where there may be any inconsistency between the requirements contained in this Chapter and any other, the provisions of this Chapter shall apply.

1.3 Glossary

Adjoining property means land that shares a common property boundary with the subject site.

Council means Central Coast Council.

Consent Authority has the same meaning in the *Environmental Planning and Assessment Act, 1979* (EP&AAct 1979)

Development Application (DA) means an application made to a consent authority, generally Council, to enable development to be carried out in accordance with Part IV of the EP&AAct 1979.

Petition means a written submission that is signed by three (3) or more people and provides the objectors name and address, whether lodged electronically or in a physical format.

Submission means a written response received by Council as a result of the public notification of a Development Application which includes the objectors name and address, whether lodged electronically or in a physical format.

2.0 NOTIFICATION OF DEVELOPMENT PROPOSALS

2.1 Where these Provisions Apply

The public notification provisions contained in this Chapter apply to:

- development applications for local development including development under s.78A (3)-(6) of the EP&AAct 1979 and

- integrated development under s.91 of the EP&AAct 1979. (except nominated integrated development);
- 'review of determination' requests under s.82A of the EP&AAct 1979;
- applications for amendments to existing development consents under s.96(1A) and s. 96(2) of the EP&AAct 1979.
- development consents; and
- issuing of complying development certificates by Council.

The Chapter does not apply to development applications for:

- designated development;
- advertised development;
- state significant development and state significant advertised development;
- other advertised development including nominated integrated development.

The above categories of development will be notified in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000* (EP&AR 2000).

2.2 Land Owners to be Notified – General Coverage

- a Where required by this plan, written notice of a development application received will be sent to the owners of land adjoining the land which is the subject of the application (except where land is held in common ownership with the subject land). This includes persons who own land that share a common property boundary with the site and land directly on the opposite side of a creek, road, pathway or similar thoroughfare.
- b Where adjoining land is within an adjoining Local Government Area (LGA), notification will be sent to the Council of that LGA.
- c Where adjoining or neighbouring land is owned under Strata Title or Community Title, notification shall be sent to the Manager or Secretary of the Owners Corporation or Association. In these cases it is the responsibility of the Manager or Secretary of the Owners Corporation or Association to make residents aware of the development proposal.
- d The Council will not separately notify the tenants of adjoining or neighbouring land of applications received. However, tenants or any member of the public may make a submission to Council on a development proposal.
- e Where adjoining or neighbouring land is owned by more than one person, a notice to one owner will satisfy the requirements of this Chapter.
- f Notification will be sent to the mailing address details within Council's Name and Address Register.

2.3 Applications Requiring Notification

- a Notification or advertising will be required for development applications for a development of a type listed in the Notification Table (Appendix A).

- b In instances where a proposed land use is not mentioned in the Notification Table and/or Council is of the opinion a proposal will have little or no environmental impact, public notification will not be required.

2.4 Public Interest Notification

Where the Council or other consent authority considers that any development application or proposal may impact the amenity of an area or be of significant community interest, the Council or other consent authority may notify surrounding land owners, relevant interest groups, organisations or agencies.

2.5 Form of Notice

- a The written notice to be forwarded by Council or other consent authority under this Chapter shall contain the following information:
 - i the applicant's name;
 - ii the application number;
 - iii the description of the land and address to which the application relates including street address and any known and commonly used property name;
 - iv a description of the proposal;
 - v the officer dealing with the application or other appropriate contact;
 - vi the time within which written submissions will be considered;
 - vii an invitation to inspect plans and documents and details of when and where such plans may be inspected; and
- b Development applications that are required to be notified under this policy shall be published on Council's website.

2.6 Exhibition of Applications

- a Plans, models and any written material submitted with a development application that has been notified will be available for inspection during office hours by any person free of charge for the period identified and from the date of notice.
- b A copy of plans (other than floor plans) will be made available on request subject to payment of the fee established by Council for copying of development application plans and the copyright of the plans being protected.
- c Where a notified development application is accompanied by a written request to justify the contravention of a development standard under cl. 4.6 of the relevant Local Environmental Plan, the written request shall be exhibited with the application and copies made available.

2.7 Form and Timing of Submissions

- a The period of notice for any development application will be as listed in the Notification Table (Appendix A) or as otherwise specified under the *Environmental Planning and Assessment Regulation 2000* (EP&AR 2000) and EP&AAct 1979.

- b Submissions on development applications must be made in writing and lodged with the Council within the period specified in the notice (the exhibition period).
- c Any person may make a written submission within the specified time period. Submissions must clearly state the grounds on which the submission is being made i.e.: the reasons for support or objection to the proposal.
- d Council or other consent authority may provide an extension of time to lodge a submission to a person who requests such extension within the specified time period. Any extension granted will be on the basis that the timing of determination of the development application is not unreasonably affected.
- e Council provides no guarantee that submissions received after the end of the exhibition period will be considered where no extension to the exhibition period has been sought and granted.
- f The preferred method of lodgement of submissions is online via Council's Website at www.centralcoast.nsw.gov.au Use of this method of lodgement enables the publishing of the submission attachment only with the name and personal details on the form not being published. Note that all submissions are published to Council's website.
- g Submissions will also be received by hand or mail.
- h Submissions must be received by 5.00pm on the last day of the notification/submission period.

2.8 Acknowledgement of Receipt of Submissions

All submissions received within the specified time period that have provided a mailing address, will be acknowledged in writing by Council. In the case of any petition received, only the person identified as the main proponent or the first addressee will be acknowledged.

2.9 Consideration of Submissions

- a Council will consider all submissions received within the specified period in its assessment of the relevant development application.
- b Anonymous submissions may be given less weight (or no weight) in the consideration of the application.
- c Council will not provide applicants with copies of submissions made by others except as required under the *Government Information (Public Access) Act, 2009*, and in the prescribed manner.

2.10 Notification of Proposals Amended Prior to Determination

- a An applicant may amend a development application prior to the determination of the application. In these instances if the original development application was notified or advertised Council will, prior to Council's determination of the development application, readvertise and/or re-notify:
 - those persons previously notified of the original development application;
 - those persons who made submissions to the original development application; and
- b The notification period for an amended development application is the same as the original notification.

- c Irrespective of “a” above, if in the opinion of Council or staff with the appropriate delegated authority the amendments are minor, or will result in no additional impacts, the amendments will not require re-advertisement or re-notification.

2.11 Notice of Determination

Council will give notice of the determination of an application to each person who made a submission and to the person identified as the main proponent of any petition received.

This notification is in addition to the public notification prescribed in cl.124 and cl.137 of the EP&AR 2000 to confirm the validity of a development consent or a complying development certificate pursuant to s.101 of EP&AAct 1979.

2.12 Request for Review of a Determination

- a Development Applications Generally

Under s. 82A of the EP&AAct 1979, an applicant may request Council or other consent authority to review its determination of a development application. If Council decides to undertake the review, then it will notify all those persons who were notified of the original application.

Note: The submission of the s.82A request does not guarantee that the application will be approved. Assessment of the original application and additional information submitted will be based on the merits of the proposal; therefore the original determination may be upheld.

2.13 Section 96 Applications

Section 96 of the EP&AAct 1979., provides that Council may, on application being made by the applicant or any other person entitled to act on a consent, subject to and in accordance with the EP&AR 2000, modify the consent if it is satisfied that the proposed modification is of minimal environmental impact, and it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

2.13.1 Examples of the Different Types of Section 96 Modifications

- a Section 96(1) - Modifications involving minor error, misdescription or miscalculation such as:
- approved development where dimensions of plans may be incorrect;
 - description of development may be incorrect, such as, “Hairdressing Salon” should have read “Hairdressing and Beauty Salon”.
- b Section 96(1A) - Modifications involving minimal environmental impact such as:
- alterations to room layout for dwelling, dual occupancy, commercial buildings;
 - changes to car parking layout for dual occupancy, residential flat building, and commercial building;
 - minor change to external facade, roofline, window positions, building finishes (including colours).
- c Section 96(2) - Other modifications such as:

- internal and external alterations which may impact on privacy or solar access to adjoining properties, such as relocation of a courtyard in a dual occupancy;
- substantial alterations to larger developments, which do not significantly change the development, such as increased floor space to a warehouse;
- alteration to the number of lots in a subdivision.

2.13.2 Circumstances where Public Notification of Modification Applications is Required

- a Public notification of applications lodged under s.96(1) is not required.
- b Public notification of applications lodged under s.96(1A) will generally not be required unless Council or staff with the appropriate delegated authority is of the opinion it may impact on an adjoining property and submissions were received to the original application.
- c Public notification of applications lodged under s.96(2) will generally not be required unless Council or staff with the appropriate delegated authority is of the opinion it may impact on an adjoining property and submissions were received to the original application
- d Where Council considers that notification is necessary, Council will notify any owner of adjoining land.

3.0 OTHER MATTERS

3.1 Complying Development Certificates

Cl. 137 of the EP&AR 2000 prescribes the public notification requirements to confirm the validity of a Complying Development Certificate pursuant to s.101 of the EP&AAct 1979.

When Council issues a Complying Development Certificate, it will notify in accordance with cl.137 of the EP&AR 2000.

3.2 Advertisement of Consents and Certificates

Council will publish the following information in a local newspaper and on Council's website on a regular basis:

- a development consents issued;
- b complying development certificates approved by Council; and
- c Building Certificates (s.149A – s.194G EP&AAct 1979) for unauthorised works.

APPENDIX A – NOTIFICATION TABLE

Type of Development	Notice in Newspaper	Notice to Adjoining Owners	Submission Period
Advertisements and Advertising Structures on land zoned residential, or on land adjoining land zoned residential	Yes	Yes	14 days
Amusement Centre/Entertainment Facilities	Yes	Yes	14 days
Boarding House	Yes	Yes	21 days
Change of Use in Industrial and Business Zones	No	Yes	N/A
Child Care Centres	Yes	Yes	21 days
Crematoriums/cemeteries	Yes	Yes	14 days
Commercial Building within a commercial zone.	No	No	N/A
Commercial Building Work – new or alterations and additions where adjoining land zoned residential or existing residential development	No	Yes	14 days
Demolition	No	No	N/A
Drug Rehabilitation Facilities	Yes	Yes	21 days
Dual Occupancy – including alterations and additions	Yes	Yes	14 days
Dwelling houses, ancillary development or additions- where setback, site coverage, floor space ratio and building height requirements are complied with.	No	No	N/A
Dwelling houses ancillary development or additions - where setback or site coverage or floor space ratio or building height requirements are not complied with or where in the opinion of Council the proposal may have undue impact on the amenity of surrounding properties	No	Yes	14 days
Educational Establishment excepting proposals in a business, industrial or special use zone	Yes	Yes	21 days
Food and drink premises located on footpaths excepting proposals in a business, industrial or special use zone	Yes	Yes	14 days
Funeral chapel, funeral home excepting proposals in a business, industrial or special use zone	Yes	Yes	14 days
Group Home	Yes	Yes	14 days
<i>Development involving a heritage item</i>	Yes	Yes	14 days
<i>Development within a heritage conservation area</i>	Yes	Yes	14 days
Home Industry, home business	No	Yes	14 days
Hospital if proposed on land zoned residential or land adjoining land zoned residential	Yes	Yes	21 days
Hostel	Yes	Yes	14 days
Industrial Building Work excepting proposals in a business or industrial zone	No	Yes	14 days
Internal Fit Outs/Alterations	No	No	N/A
Land Subdivision– resulting in 1 to 9 lots (except where as a result of approved development)	Yes	Yes	14 days
Land Subdivision– resulting in 10 or more lots (except where as a result of approved development)	Yes	Yes	21 days
Non-residential uses in residential zones	No	Yes	14 days

Part 1 Preliminary
Chapter 1.2 Notification of Development Proposals

Place of Public Worship excepting proposals in a business, industrial or special use zone	Yes	Yes	21 days
Private waterfront developments (including jetties, boat ramps etc.)	No	Yes	21 days
Pub	Yes	Yes	21 days
Residential Flat Building/Multi Dwelling Housing – including alterations and additions	Yes	Yes	21 days
Secondary Dwellings where setback and building height requirements are complied with	No	No	N/A
Secondary Dwellings where setback and building height requirements are not complied with	No	Yes	14 days
Seniors Living	Yes	Yes	21 days
Sex Services Premises & Restricted Premises	Yes	Yes	14 days
Shop-Top Housing	Yes	Yes	21 days
Subdivision of an approved Dual Occupancy	No	No	N/A
Strata Subdivision of Existing Building	No	No	N/A
Telecommunication Facilities	Yes	Yes	14 days
Tourist and visitor accommodation except in a business or special use zones	Yes	Yes	14 days
All other Development	Yes	Yes	14 days