

DCP No.
70

Notification of Development Proposals Development Control Plan

This Development Control Plan (DCP) may be amended from time to time by Council. Proposed amendments are required to be advertised and exhibited in draft form and any submissions received must be considered by Council before the amended plan is adopted. People using this DCP should ensure that they have the current copy of the plan, including any amendments. If in doubt, please check with Council's Customer Service Centre.

Adopted as per council resolution Dated:	
Effective:	
Certified in accordance with the Environmental Planning and Assessment Act 1979 and Regulations	General Manager:
	Dated:

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1.0 INTRODUCTION

1.1 Aims and Objectives

The aim of this plan is to identify Council's requirements for the notification and advertising of development 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 assessment of development proposals; and
- Identifying the administrative procedures for notification of applications and consents.

1.2 Application of this Plan

This plan is a Development Control Plan (DCP) prepared and adopted pursuant to Section 72 of the Environmental Planning and Assessment Act 1979 (the Act) and relevant clauses of the Environmental Planning and Assessment Regulation 2000. It is a document for the general guidance of Council in the exercise of its duties and functions under the Act. The plan applies to all land in the Shire of Wyong to which Wyong Local Environmental Plan 1991 (WLEP, 1991) applies.

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

1.3 Definitions

Council means Wyong Shire Council

Development Application (DA) means an application made to a consent authority, generally Council, to enable development to be carried out

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

2.0 NOTIFICATION OF DEVELOPMENT APPLICATIONS

2.1 Where these provisions apply

The public notification provisions contained in this policy apply to:

- Development applications for local development including development under section 78A (3)-(6) and integrated development (except nominated integrated development);
- Review of determinations requests under section 82A of the Act;
- Applications for amendments to existing development consents under section 96(1A) and section 96(2) of the Act;
- Development consents; and
- Issuing of complying development certificates.

The Chapter does **not** apply to development applications for:

- Designated development;
- Advertised development;
- State significant development and state significant advertised development;
- Nominated integrated development; and
- Other advertised development.

All the above categories of development will be notified in accordance with the relevant provisions of the Environmental Planning and Assessment Regulation 2000.

2.2 Land Owners to be notified - General coverage

Written notice of an application received will be sent to the owners of land adjoining the land which is the subject of the application. 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; and
- Persons who own land within the Cities of Gosford, Greater Cessnock or Lake Macquarie which adjoins the boundary of Wyong Shire and the site which is the subject of the development application.

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.

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.

Where adjoining or neighbouring land is owned by more than one person, a notice to one owner will satisfy the requirements of this Chapter.

2.3 Circumstances for extended coverage

Where, in the opinion of Council, the owners of other land are likely to be affected by the proposal, they shall also be notified of the application.

2.4 Applications requiring notification

Notification of the following development applications is required under this Chapter:

- i* Applications for development under Part 4 of the EP&A Act 1979 **except for**:
 - Internal alterations which do not involve a change of use or alter the external appearance of a building other than a heritage item as identified in the WLEP;
 - Single storey dwelling houses that comply with Chapter 100- Quality Housing and Chapter 99 – Building Lines;
 - Single storey alterations and additions to dwelling houses that comply with Chapter 100 – Quality Housing and Chapter 99 – Building Lines;
 - Subdivision applications arising from approved development; or
 - Applications for development in commercial, industrial or special use zones where the site **does not** adjoin land zoned Residential or one of Council's Environmental zones (7a, 7b, 7c, 7d, 7e, 7f or 7g) which contains a dwelling house.
 - Complying Development Applications
 - Building Certificates
- ii* Applications for development in the 4(b) Light Industrial zones for the purpose of a brothel.

2.5 Public interest notification

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

2.6 Submission of amended applications prior to determination

Where Council considers that amended plans or additional information submitted prior to determination are likely to have a greater or different detrimental effect on adjoining properties Council will re-notify those persons originally notified and those who made a formal written submission.

2.7 Form of notice

a ***Letter to Owners***

The written notice to be forwarded by Council under this Chapter shall contain the following information.

- The applicant's name;
- The application number;
- The description of the land and address to which the application relates including street address and any known and commonly used property name;
- A description of the proposal;
- The officer dealing with the application;
- The time within which written submissions will be considered;
- An invitation to inspect plans and documents and details of when and where such plans may be inspected; and
- An A4 or A3 sized site plan and elevations of any buildings proposed which clearly show the height of proposed structures. *Note:* These plans may be reduced and not be to scale. Floor plans will not be sent with notices unless authorised by the applicant.

b ***Notification in local newspaper***

All applications which are subject to a written notification to one or more property owners shall be advertised in a local newspaper on one occasion. The advertisement shall contain advice on when and where the application plans may be inspected.

c ***Notice on Council website***

Development applications that are required to be notified under this policy shall be published on Council's website.

2.8 Minimum periods of notice

The minimum period of notice for any development application will be fourteen (14) calendar days from the date of the notice.

Council may extend the period of notification for any development application, if warranted due to the size or complexity of a proposal or because the exhibition period includes public holidays.

2.9 Exhibition of applications

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 in section 2.8 of this Chapter, from the date of notice.

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.

Where a notified development application is accompanied by an objection to a development standard under State Environmental Planning Policy No. 1, the objection shall be exhibited with the application and copies made available.

2.10 Period during which submissions may be made

Submissions on development applications must be made in writing and lodged with the Council within the period specified in the notice (the exhibition period). This period may be extended by Council where it is considered appropriate.

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 ie: the reasons for support or objection to the proposal.

Council 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.

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.

2.11 Acknowledgement of receipt of submissions

All submissions received within the specified time period will be acknowledged in writing by Council.

2.12 Consideration of submissions

Council will consider all submissions received, within the specified period, in its assessment of the relevant development application. Submissions assist Council in being aware of relevant issues and community concerns when determining an application.

Council will not provide applicants with copies of submissions made by others except as required under the Freedom of Information Act and in the prescribed manner.

2.13 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 Clauses 124 and 137 of the Environmental Planning and Assessment Regulation 2000 to confirm the validity of a development consent or a complying development certificate pursuant to section 101 of the Act.

2.14 Request for review of a determination

Under section 82A of the Act, an applicant may request Council 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.

2.15 Section 96 applications

What are examples of the different types of section 96 modifications?

- a **Section 96(1)** - Modifications involving minor error, misdescription or miscalculation
 - 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
 - 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
 - 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.

- Amendments to land use, which require further assessment.
- 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.

Circumstances where public notification of modifications is required

- Public notification under Section 96(1) is not required.
- Public notification under Section 96(1A) will generally not be required unless Council is of the opinion it may impact on an adjoining property and submissions were received to the original application.
- Public notification under Section 96(2) will generally not be required unless Council is of the opinion it may impact on an adjoining property.

Where Council considers that notification is necessary, Council will notify:

- any person who was notified of the original development application **and** made a submission; and
- any other owner of adjoining or neighbouring land which, in the opinion of Council, may be affected by the proposed modification.

3.0 OTHER MATTERS

3.1 Complying development certificates

Clause 137 of the Environmental Planning and Assessment Regulation 2000 prescribes the public notification requirements to confirm the validity of a Complying development certificate pursuant to section 101 of the Act.

When Council issues or receives a Complying development certificate, it will notify in accordance with clause 137 of the Regulation.

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:

- Development consents issued.
- Complying development certificates approved by Council or a Private Certifying Authority.