

Notification of Development Proposals Policy

Leadership

1.2 COUNCIL COMMUNICATES AND ENGAGES WITH THE COMMUNITY IN A DIVERSE, OPEN AND INCLUSIVE WAY

Adoption Date:	14 November 2018 Commences 21 November 2018
Council Reference:	5704/6
Policy Owner:	Group Manager Planning, Development and Regulatory Services
Next review date:	November 2020
File Reference:	5704/6
Related Policies/Legislation:	Environmental Planning Act 1979 and Regulations Local Government Act 1993 and Regulations Wingecarribee Shire Council Code of Conduct
Related Documents:	Communications Strategy, 2014 Community Engagement Strategy, 2014
Superseded Policy/GM Practice Note:	Community Engagement and Notification of Development and Planning Proposals Policy 2.4

OBJECTIVES

The objectives of this policy are to:

- Provide the opportunity for public participation in the development assessment decision making process that is appropriate to the type and form of the development proposed.
- Ensure a consistent, transparent and effective development assessment process.
- Identify circumstances when notification of development is not required.

SCOPE

This policy applies to:

- All land within the Wingecarribee Shire Council Local Government Area.
- All development requiring development consent under the Wingecarribee Local Environment Plan 2010.



POLICY STATEMENT

POLICY OVERVIEW

Council considers it appropriate and in some instances is required to specify, pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act), and *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), where and when public notifications of a proposed development will be carried out. Further to this process, pursuant to section 4.15 of the EP&A Act, Council must consider and assess any submissions made in respect of a proposed development.

There are also prescribed processes for public notification and participation for *advertised and designated* development and these are specified in the EP&A Act and EP&A Regulation. Council also stipulates within this policy additional uses that are to be managed in a similar way as Advertised Development under the EP&A Act.

POLICY GUIDELINES

1. Matters that Council considers when forming an opinion that enjoyment of land may be detrimentally affected or have uncontrollable impacts associated with a development application.

With all new development applications received, along with proposed amendments, modifications and reviews, Council will consider:

- i) Views to and from the land
- ii) Overshadowing and solar access
- iii) Privacy
- iv) Traffic and Access
- v) Ground Levels
- vi) Amenity impacts (such as potential noise, odour, light or other impacts)
- vii) Visual aspects of the building in relation to streetscape including heritage considerations.
- viii) Other localised issues such as natural hazards and stormwater / drainage.

Council will generally determine whether there is a detrimental effect or unmanageable impact in terms of the above criteria using relevant standards and Council's adopted Development Control Plans (DCP) and any other adopted Policy or Guideline.

Council may broaden the above criteria and subsequent extent of notification depending on the type and scale of development and following an inspection of the proposed development site. Some applications will be notified in accordance with this policy; see Section 2 below.



2. Circumstances in which Council will engage with property owners and occupants.

Once an assessment is completed of the proposed development, in accordance with Section 1 above, Council may *notify* the development proposal. The table in SCHEDULE 1 outlines when and how Council will engage with property owners and occupants for a variety of development types. A notice of proposed development letter may be accompanied by a plan of the proposed development attached. This will be a plan that indicates the siting of the proposal on the subject allotment and also the external configuration of the building in relation to the lot boundaries but will not include floor plans.

Notification will generally occur for a minimum of fourteen (14) days, or a greater period if deemed necessary by the assessing officer. With development proposals that incorporate the following, Council may undertake notification of the proposed development:

1. Any new single storey residential dwelling or additions or alterations to an existing residential building or ancillary building, not in a defined urban release area where the proposed floor levels are greater than 600mm above existing ground level on the property AND is deemed by the assessing officer to be a detrimental or unmanageable impact on surrounding properties.
2. Two storey residential buildings, or ancillary residential two storey buildings, in all residential zonings, unless the subject site is located within an identified urban release area. The assessing officer at their discretion may notify the development in identified urban release areas where it is considered that there is a detrimental or unmanageable impact on surrounding properties.
3. In circumstances where it is proposed to be more than one dwelling on the site (for clarity - including Secondary Dwellings and Dual Occupancies).
4. New Commercial and Industrial premises where it is considered by the assessing officer to have a potential impact on adjoining land or where the proposed development is either adjoining or adjacent to a Residential Zoning.
5. Proposed subdivision of land (excluding boundary adjustments and strata title subdivision).
6. Applications where a variation to Council's policies are being proposed (which is greater than 10%), e.g. building lines, setbacks and height, excluding controls relating to cut and fill.

Note: With regard to mapped Urban Release Areas in the opinion of Council Assessing Officers there is a detrimental or uncontrollable impact on adjoining land as a result of the departure from Council's Policies, Council may notify the application to adjoining property owners.

7. All new development in Heritage Conservation Areas or upon the site of a Heritage Item, where the proposed works are visible from a public street (excluding mapped urban release areas).
8. Any Temporary Use of Land under Clause 2.8 of the Local Environmental Plan.



9. A Tower for the purposes of a Telecommunication facility as provided for under *State Environmental Planning Policy (Infrastructure) 2007*.

The following specific types of new development are classified as 'Advertised' development pursuant to this Policy and are advertised in the same manner as advertised development under the EP&A Act and EP&A Regulation:

- i) Pubs and Hotels
- ii) Educational Establishments
- iii) Hospitals
- iv) Places of Public Worship, and
- v) Residential accommodation (as defined in *Wingecarribee Local Environmental Plan 2010 (WLEP)*) that incorporates an additional three or more dwellings.

Where the development involves an addition(s) or alteration(s) to an existing above mentioned development type (i-v), notification rather than advertising will occur if an assessment under Section 1 determines a potential for impact to occur.

The advertising of development occurs to adjoining and adjacent local residents and through a local newspaper advertisement for a period of not less than thirty (30) days, unless it is of a type referenced in the Act. A sign in an approved form is also placed on the site where the proposed development is to occur.

Applications that will not result in notification.

Any application where an assessment under Part 1 of this Policy indicates in the opinion of a Council Assessment Officer that there is no detrimental or uncontrollable impact upon adjoining property will not be notified.

3. Parties to which will be notified.

When an application is to be notified or advertised, Council will notify:

- Owners (and occupiers in the case of tenanted properties) of land adjoining and adjacent to the site upon which the development is proposed as per figure 1 below.

At the discretion of the assessing officer Council may also notify:

- Owners (and occupiers in the case of tenanted properties) of land in close proximity to the site, upon which development is proposed, who may be potentially affected. This will be dependent upon the scale of the proposal.
- Other more remote property owners (and occupiers in the case of tenanted properties) that are potentially affected through impacts such as noise or increased traffic movements where the development is of significant scale.

Where the adjoining property to be notified is a body corporate, the Manager or Secretary of the Body Corporate, or an association (under Community Land Development Act 1989) may be forwarded the notice of proposed development correspondence only.



Notification of Development Proposals Policy

Council will determine who is to be notified by referencing the registered owner's name and their respective nominated registered address as indicated in Council's Property Information System as at the date the notification correspondence is prepared by Council. Where premises are unoccupied or tenanted, Council may ~~only~~ notify the registered owner and occupier of the property.

Notification of a change of ownership from the Land and Property Information Service to Council can take approximately 6-8 weeks. All letters sent under this policy position will be directed by normal Australia Post mail service to property owners at the address registered upon Council's Property Information System at the time the notification correspondence is prepared. It is the responsibility of the vendor to advise any future purchasers of the notification where there is likely to be a change in ownership.



Figure 1 – Adjoining and adjacent properties to be notified of the proposed development.

4. Notification of amendments to Plans and Documentation (cl.55), Modifications (s.4.55) to Development Consent and Requests for Review (s8.2).

The plans for a proposed development may be amended by the applicant prior to its determination under clause 55 of the *Environmental Planning and Assessment Regulation 2000* or modified in the case where an application is determined by way of approval. Amended plans can also be considered by Council following a request for review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*.

a) Amendments:

The applicant may submit amended plans in order to address concerns raised by Council or to address concerns raised by an objector in a submission in response to the notification



process. In these circumstances it is not expected that Council will re-notify the development proposal. Where issues have not been addressed through the submission of amended plans and supporting documentation, or where there is a significant change in the proposed application which will create detrimental or unmanageable impacts, Council's assessing officers may at their discretion re-notify the proposal.

b) Modifications following determining an application by way of consent

For applications that have been determined by way of approval, a section 4.55 modification application may be submitted to Council for consideration. These applications can be of a minor nature (s4.55(1) and s4.55(1A) of the *Environmental Planning and Assessment Act 1979* involving minimal environmental impact or addressing an error or mis-description in an application. More significant modifications will be considered under (s4.55(2)). Council will generally not notify applications made under section 4.55(1) and s4.55(1A), however in the case of a s4.55(2) or a s4.55(AA) modification, if the original development application was previously notified or advertised, any future modification involving environmental impact will be notified or advertised in the same manner.

c) Review of determination

In the case of where an application has been determined by way of refusal or in the case of an approval where a condition(s) of consent have been imposed, a proponent may request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*. Where a request is made under this section, Council shall notify the section 8.2 application in the same manner as the original development application was notified or advertised.

5. Public inspection of Plans and Documentation and making of submissions.

• Time periods for notification and advertisement

Any notification made under this policy provides for fourteen (14) days for written submissions to be received by Council from the date of the notice of proposed development. In the case of advertised development, the advertisement period is 30 days.

Council will provide an additional two (2) weeks to the standard notification period where Council notifies or advertises a development proposal between the 20th December and the 2nd January in any calendar year.

Requests for additional time to prepare a submission may be made in writing addressed to the Group Manager Planning, Development and Regulatory Services and must be received prior to the expiry of the notification or advertisement period. Council may consider at its discretion the circumstances surrounding the request and may grant in writing additional time to provide a submission. Any additional time granted shall not exceed 2 weeks from the date of the request.



- **Viewing of Plans and details**

Plans and documentation relating to notified or advertised development applications are available on Council's online Development Application Tracker and also are available for public inspection at the Customer Services Centre during normal business hours.

- **Making Submissions**

Submissions made in response to notification or advertisement of a development application must:

1. Be made in writing;
2. Be addressed to the General Manager;
3. Provide the Application Number and Property Address of the development application.
4. Clearly indicate the Name, Address and Phone Number of the party making the submission;
5. Provide an email address on the submission;
6. Clearly state the reasons or grounds for the Support of or Objection to the proposal.

Objections should not be focussed on civil disputes and should be based on planning grounds generally related to the items listed in Section 1 of this policy.

In consulting with the community in accordance with this policy, Council is seeking input on the proposal and this can include support for a development or activity. Well founded, balanced and factual submissions can inform and influence the development assessment process and Council can obtain valuable information on localised issues that may apply to the development being considered. Making a submission is not mandatory.

Council will acknowledge receipt of any submissions received at the conclusion of the assessment process and advise that the submission has been taken into account during the assessment of the proposal. Council may also provide basic information on the development assessment outcome.

- **Applicant may be provided with copies of submissions**

The applicant will be advised of submission content if Council believes details raised in the submission warrant further information or need to be addressed by the applicant. If an application is made for release of information under the Government Information (Public Access) Act 2009 (GIPA) Council may release information that it holds in relation to the submission in accordance with the provisions of that Act. Personal details may be withheld in accordance with a request made under the Personal Information Protection Act 1998 where permitted by law or where the GIPA Act prevents its release.



6. Council Procedures with Submissions

All submissions received during the notification period in accordance with the requirements of this policy will be considered during the assessment of the development application under section 4.15 or in the case of a modification application under section 4.55, or a review of determination under section 8.2. Submissions are considered objectively by Council's assessment officers and will inform the development assessment process.

Council may consult with the applicant where issues raised in the notification or advertising period are considered to have merit and are pertinent to the development assessment process. The applicant may be requested by Council to amend their proposal in order to address detrimental or unmanageable impacts associated with the development or in the case where the proposal is supportable, Council may impose conditions of development consent, or amended conditions in the case of a modification, to ensure that impacts are managed appropriately.

Applications that receive wide community interest may be considered by Council as 'public interest matters'. Where such circumstances arise the matter may be referred to full Council for determination rather than being considered under delegated authority. The Group Manager Planning Development and Regulatory Services in accordance with his / her delegations, generally will determine whether an application will be considered as a 'public interest matter' where a business paper report will be prepared and referred to full Council for determination. Council shall include all issues raised within the notification period within the business paper report for consideration, along with an appropriate response by Council's assessing officer.

In the instance where an application is referred to full Council for determination, Council will provide courtesy advice of the application being referred to Council and the proposed date and time in which the matter will be heard. Such notification is anticipated to be provided to submitters 3 days prior to the ordinary meeting of the Council by email. Where an email address has not been provided in the submission Council will provide the courtesy notice by mail.

In accordance with Council's Code of Meeting Practice, submitters and also the applicant may be provided with the opportunity to address the full Council when the proposal is reported as a business paper agenda item. Any person seeking to address Council on an item must register with Council to speak at the meeting.

7. Funding of Notification Processes

Costs incurred by the Council for notifying and or advertising development proposals is cost recovered through the levying of a fee at the time of lodgement of the application. The fee is adopted annually in Council's Revenue Policy, in the Operational Plan.



MORE INFORMATION

Council Contacts:

Person:	Duty Planner / Certifier Civic Centre, 68 Elizabeth Street, Moss Vale
By Telephone:	(02) 4868 0888
By Mail:	PO Box 141, Moss Vale NSW 2577
By Email:	mail@wsc.nsw.gov.au

View plans using Development Application reference number using DA Tracking on Council's website: www.wsc.nsw.gov.au/DTracker

DEFINITIONS

EP&A Act: The *Environmental Planning and Assessment Act 1979*

EP&A Regulation: *Environmental Planning and Assessment Regulation 2000*

WLEP: Wingecarribee Local Environmental Plan 2010

A Local Environmental Plan (LEP) is an instrument that is prepared in accordance with the *Environmental Planning and Assessment Act 1979*, and *Environmental Planning and Assessment Regulation 2000* and is approved by the Minister for Planning and Environment.

A LEP is a legal instrument that zones land, imposes standards to control development, or implements a state or local policy outcome. It is a means to implement strategies, giving legal effect to where and under what circumstances places should be developed or particular environmental controls imposed.

DCP: Council's adopted Development Control Plans

A DCP provides specific, comprehensive guidelines for certain types of development, or area specific requirements for localities. The DCP is an important planning tool because it provides a flexible means of identifying additional (to the WLEP) development controls and standards for addressing development issues at a local level.



RESPONSIBILITIES

Responsibilities for implementing this policy are shared between Councillors, Executive and staff as follows:

Councillors:

- To lead the community in their understanding of and compliance with the *Notification of Development* policy.
- Comply with Council's *Notification of Development Proposals* policy

Executive:

- To communicate, implement and comply with the *Notification of Development* policy.

Staff:

- Comply with the *Notification of Development* policy.
- Ensure development proposals are notified and / or advertised in accordance with the guidelines set out in the *Notification of Development* policy.

PERFORMANCE MEASURES

The success of this policy will be measured by:

- Zero or limited incidents of non-compliance with this policy.

BREACHES OF THE POLICY

Failure to comply with this policy may constitute a breach of employment terms and, depending on the circumstances, a breach of the Wingecarribee Shire Council Code of Conduct.

Breaches of the policy may also invite third party appeals to the New South Wales Land and Environment Court on procedural matters.

APPROVED BY:

WINGECARRIBEE SHIRE COUNCIL

14 November 2018



SCHEDULE 1

Development Type	Type of Notification		
	Neighbour Notification	Advertised Development *	No requirements
Residential			
New Residential Single Storey Dwellings.			✓
New Residential Single Storey Dwelling (and Residential alterations and additions) with change in ground level >600mm and not in an urban release area and has identifiable impacts on adjoining or adjacent properties in the opinion of a Council assessing officer.	✓		
New Residential Two Storey Dwellings or ancillary two storey buildings in all residential zones (and two storey residential alterations and additions) unless the subject site is located within a mapped urban release area.	✓		
Outbuildings that are ancillary to a residential usage of the land (eg sheds, pools, garage and carports).			✓
Residential accommodation where there is up to two additional dwellings being proposed.	✓		
Residential accommodation where there is three or more additional dwellings being proposed (Including Boarding Houses, Multi Dwelling Housing and Residential Flat Buildings)	✓	✓	
Demolition (unless in a heritage conservation area or an item of heritage)			✓
Commercial			
New Commercial Premises	✓		
New Commercial and Industrial premises where it is considered by the assessing officer to have a potential impact on adjoining land or where the proposed development is either adjoining or adjacent to a Residential Zoning.	✓	✓	



Notification of Development Proposals Policy

Development Type	Type of Notification		
	Neighbour Notification	Advertised Development *	No requirements
Additions and Alterations to a Commercial Premises	✓		
Change of Use	✓		
First Occupancy of a new premises	✓		
Signage	✓		
Subdivision			
Subdivision of land into two or more lots	✓		
Boundary Adjustments			✓
Tourist and Visitor Accommodation			
New Facilities or alterations and additions to existing facilities or a change of use	✓	✓	
Rural Industries			
Rural Industries	✓		
Industries / Storage			
New Industry / Factory Buildings	✓		
Alterations and Additions to Buildings	✓		
Change of use	✓		
Tower used to site telecommunication facilities	✓	✓	
Extractive Industries			
Extractive Industries - Not designated	✓	✓	



Notification of Development Proposals Policy

Development Type	Type of Notification		
	Neighbour Notification	Advertised Development *	No requirements
Extractive Industries - Designated Development	✓	✓	
Hospital / Religious / Education Establishments			
New	✓	✓	
Alterations and Additions	✓	✓	
Temporary use of Land			
Uses under Clause 2.8 of the Wingecarribee Local Environmental Plan	✓	✓	
Other Development not listed within this policy			
Subject to assessment of impacts by Council's assessing officer. Where it is found to have uncontrolled or unmanageable impacts on surrounding properties the assessing officer shall determine the level of notification required.			✓

* Advertised development includes an advertisement in the Newspaper circulating the Local Government Area and also a sign on the development site in a prominent location.

