



## **7. PLANNING**

Policy 7.5

### **NOTIFICATIONS POLICY FOR DEVELOPMENT APPLICATIONS**

Version 3

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### 7.5 NOTIFICATIONS POLICY FOR DEVELOPMENT APPLICATIONS & COMBINED DEVELOPMENT APPLICATIONS

#### ***PURPOSE:***

To provide the requirements for the notification of developments in the Lithgow City Council Local Government Area.

#### ***OBJECTIVES:***

- To provide the community with an opportunity to assist Council in its decision making process for development applications.
- To detail the criteria for notifying persons of development applications being considered by Council.
- To assist the public in understanding Council's notification obligations, requirements and procedures.
- To ensure the persons lodging submissions are informed of Council's determination of development applications.

#### ***DEFINITIONS:***

Terms used in this Policy have the meaning ascribed by the relevant Local Environmental Plan, Environmental Planning and Assessment Act, any other relevant legislation or as commonly defined except where specifically defined below;

***Applicant*** – means the person/company that has lodged a Development Application.

***Application*** – means a Development Application or a combined DA/CC.

***Advertised Development*** - means development, other than designated development, that is identified as such by the Environmental Planning and Assessment Act, 1979, its regulations, an environmental planning instrument or development control plan.

***Complying Development*** - means development specified in a complying development code that meets the standards specified for that development and that complies with the requirements of Division 2 for complying development in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

***Designated Development*** – means development that is declared to be designated development by an environmental planning instrument or the Regulation.

***Exempt Development*** - means development that is specified in an exempt development code that meets the standards specified for that development and that

complies with the requirements of Division 2 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

***Integrated Development*** – means development (not being exempt or complying) that requires development consent as well as one or more approvals as specified in the Environmental Planning and Assessment Act, 1979.

***Owners of Adjoining or Neighbouring Lands*** - means the person/s identified on Council's property system, at the time the notification is prepared, as owning land that has a common boundary with the proposed development site or neighbours the proposed development site or is separated only by a pathway, driveway, laneway or public road, as identified in Diagram 1.

***Submission*** – means a letter, petition or similar written representation received from individuals or groups of people regarding environmental or planning issues related to an application.

***POLICY:***

Notification for the purposes of this Policy involves advising relevant persons of the lodgement of a development application or combined development application and inviting submissions to assist Council in its determination process. It also involves advising those who made submissions of the determination of the application.

## **1.0 APPLICATION OF POLICY**

### **1.1 DEVELOPMENT APPLICATIONS THAT THE POLICY APPLIES TO**

All development applications will be notified in accordance with this Policy unless indicated in Section 1.2 or Section 2.

### **1.2 DEVELOPMENT APPLICATIONS THAT THE POLICY DOES NOT APPLY TO**

#### **1.2.1 LEGISLATED NOTIFICATIONS**

This Policy does not apply to development applications that are required to be notified as a matter of law. Notification procedures for the following types of development are provided in the Environmental Planning and Assessment Act, 1979 and accompanying Regulation, including but not limited to:

- Complying Development
- Designated Development
- Advertised Development including Integrated Development
- State Significant Development
- Development under State Environmental Planning Policy 33
- Development under State Environmental Planning Policy 55
- Demolition of Heritage Items

- Any other proposal to which specific notification legislation relates.

In these circumstances the notification procedure will be in accordance with the relevant legislation.

## **2.0 APPLICATIONS FOR WHICH NOTIFICATION WILL NOT BE GIVEN**

Council will **not** give notice of an application in the following instances:

- The proposal is Exempt Development.
- The application is rejected on the basis of inadequate, unclear or illegible information.
  - An application is received to carry out alterations for the purpose of fire safety upgrading of existing buildings in conjunction with a fire safety order from Council.
  - An application to strata subdivide an existing approved building(s).
  - An application involving a boundary adjustment.
- Single storey dwellings in all zones (providing this does not involve demolition of an existing dwelling).
- 2 Storey dwellings on land zoned RU1, RU2 or R5.
  - Additions to single storey dwellings that do not involve adding an additional storey to the dwelling.
  - Internal alterations that do not alter the use of a building or its Class under the Building Code of Australia.
  - Carports, pergolas and verandahs in association with a dwelling.
  - Detached garage or shed associated with a dwelling and to be used in conjunction with a dwelling that does not exceed 36 square metres in floor area or 3.6 metres roof ridge height located in R1, R2 , RU5, E3 and E4 zones.
  - Detached garage or shed associated with a dwelling and to be used in conjunction with a dwelling that does not exceed 50-100 square metres in floor area located in R5 zones.
  - Detached garage or shed associated with a dwelling and to be used in conjunction with a dwelling that does not exceed 200 square metres in floor area located in RU1 and RU2 zones.
- Dwellings (up to 2 storeys) on land zoned RU1, RU2 or R5.
  - Subdivision creating less than 5 new lots on land zoned RU1 or RU2
  - Commercial or industrial development comprising non-structural alterations to an existing building (With the exception of Restricted Premises and Sex Services Premises).
  - Development involving a change of use that does not involve the change to a Restricted Premises, Sex Services Premises, Funeral Chapel, Funeral Home or Retail Premises involving the sale of firearms within the meaning of the *Firearms Act 1996*.
  - Advertising signage.
  - Any other development of a minor nature that, in the opinion of the assessing officer, does not have the potential to create a negative impact on the amenity of

the neighbourhood by way of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.

- Retaining walls less than 1.5 metre high located in R1, R2 and RU5 zones
- Retaining walls located within 1m of a boundary and less than 1 metre high
- Earthworks if exempted under Council Policy – Filling and Levelling Land.

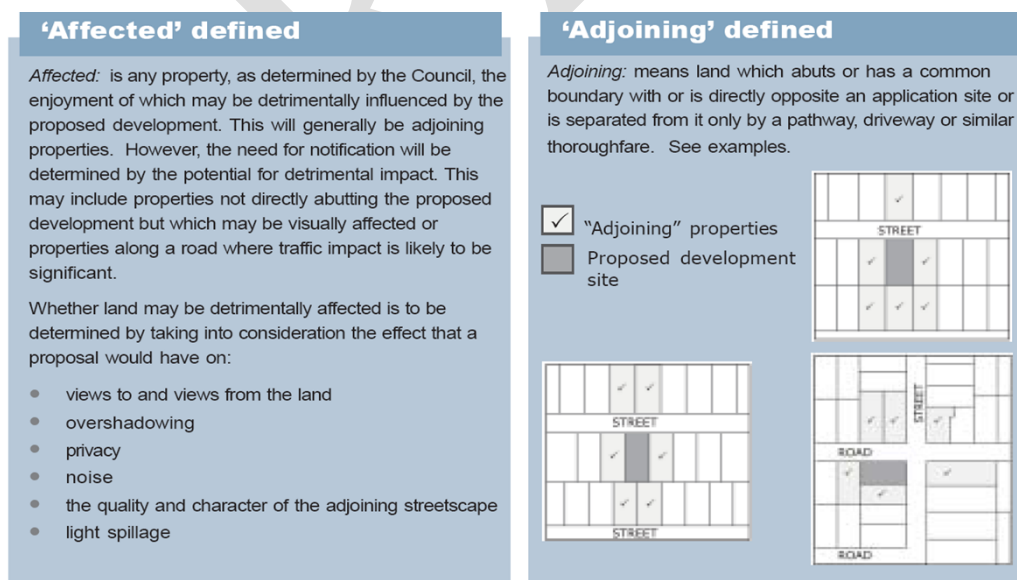
### 3.0 NOTIFICATION PROCEDURES FOR DEVELOPMENT APPLICATIONS OR COMBINED DEVELOPMENT APPLICATIONS

#### 3.1 LANDOWNERS/OCCUPIERS TO BE NOTIFIED

Notice of the application will be sent to person/s who own land (according to Council's Property Information System) adjoining or neighbouring a proposed development site. In certain instances, based on the potential impact of the development; Council will, at the discretion of the Development Assessment Officer, undertake wider notification of a Development Application where property is deemed to be potentially "affected".

Diagram 1 below shows the land to be considered as "Adjoining or neighbouring land" for the purposes of this Policy.

When a site and adjoining land are not in the configuration as shown in Diagram 1 below, Council's Development Assessment Officers will form an opinion based on the potential impact of the development, as to what is to be considered as "affected land" using the criteria listed below.



**Diagram 1**

### **3.1.1 Strata Plans**

In the case of the adjoining land being part of a strata plan, notification will be given to individual unit owners and also the Body Corporate.

### **3.1.2 Persons in adjoining Council areas**

Some development proposals can adjoin or neighbour land in other Council areas. In this instance, Council will send a notification letter to the adjoining Council asking that they inform its residents/ratepayers likely to be affected.

Any submissions from residents in adjoining Council areas will be taken into consideration in the determination of the application.

## **3.2 NOTIFICATION PERIOD**

**The minimum notification period is in accordance with this Policy is 14 days.**

The notification period commences on the date shown on the notification letter.

Submissions will be received at any time within the notification period up to and including the last day as detailed in the notice given.

### **3.2. 1 Development applications made over the Christmas holiday period**

If a development application is to be notified during the period where Council is closed over the Christmas and New Year Holiday Period, then the number of working days in which Council is closed is to be added to the duration of the notification period.

## **3.3 FORM OF WRITTEN NOTIFICATION**

The notification letter shall contain the following details:

- The development application number.
- The Applicant
- The address of the proposed development site.
- A description of the proposed development.
- A notification plan (where practical) of any proposed building work which depicts its height, external configuration and siting.
- Advice that the plans may be inspected at Council's Customer Service Centre during normal office hours.
- The closing date for written submissions.
- Advice that the authors' details may be disclosed at some point in the determination process if required by law.
- Advice that, any person making a public submission (whether opposing or supporting the application) in relation to a relevant planning application must disclose all reportable political donations and gifts, made by the person making the submission or any associate of that person to any local

Councillor or Council employee within the period commencing two (2) years before the submission is made and ending when the application is determined. If the political donations and gifts were made after the application of submission was made, the disclosure must be made within seven (7) days after the donations and gifts were made; and that in accordance with the Act, the disclosure will be made available to the public via Council's website.

### **3.4 NOTIFICATION OF A DEVELOPMENT APPLICATION AMENDED PRIOR TO DETERMINATION**

Where a development application is amended prior to determination, Council will renotify

- (a) those persons previously notified of the original development application
- (b) those persons who made submissions to the original development application; and
- (c) any other persons who, in the opinion of the Development Assessment Officer, may be affected by the amended development application.

The notification period for an amended application is the same as the original notification.

If in the opinion of the Development Assessment Officer the amendments are minor the amended application will **not** be renotified.

### **3.5 NOTIFICATION OF AN APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT (SECTION 4.55 OF THE EP&A ACT).**

Council will notify an application to modify a development consent if the original assessment of the development application was notified or advertised. This includes an application to modify a development consent that was granted by the Land and Environment Court.

Council will notify the application for modification in the same manner as the original development application.

Council will notify those persons who previously made submission(s) and any other person, who in the opinion of the Development Assessment Officer may now be affected by the application for modification.

Notwithstanding the above, Council will not notify S4.55(1) and S4.55(1A) applications where the Development Assessment Officer is of the opinion that the application involves minimal environmental impact and is unlikely to prejudice any person(s) who were originally notified, any person(s) who previously made a submission or having regard to any matter raised in those submissions.

### **3.6 NOTIFICATION OF APPLICATIONS TO REVIEW A DETERMINATION OF A DEVELOPMENT APPLICATION (UNDER S.8.2 OF EP& A ACT)**

All applications made under Section 8.2 of the Environmental Planning and Assessment Act, 1979, for review of determinations of development applications will be notified in the same manner as the original development application in accordance with this Policy.

### **3.7 VIEWING OF APPLICATIONS**

All applications that have been notified will be made available for inspection at Council's Customer Service Centre, 180 Mort Street, Lithgow, during normal business hours.

#### **3.7.1 Information to be made available for viewing**

All plans and information lodged with an application will be available for viewing. Generally<sup>1</sup> this will include: all plans, the application form, the Statement of Environmental Effects and in the case of designated developments, an Environmental Impact Statement and any supplementary reports etc.

### **3.8 SUBMISSION REQUIREMENTS**

During the notification period any person may make a written submission to Council in respect of a development application.

A submission is required to:

- be submitted in writing addressed to the General Manager
- be received by the closing date of the notification period;
- to contain the following:
  - The name, address, and where possible the email address, of the person making the submission.
  - The relevant development application number.
  - The address of the property that is the subject of the application.
  - Details of the submission, noting that any submission by way of objection must set out the grounds of the objection.

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<sup>1</sup> Consistent with the provisions of the Government Information (Public Access) Regulation 2018, the following will generally not be available for view:

(a) the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected, or

(b) commercial information, if the information would be likely to prejudice the commercial position of the person who supplied it or to reveal a trade secret.



Council will provide assistance to anyone who may experience difficulty in placing their concerns in writing, including the provision of an interpreter through a telephone service.

### **3.8.1 Petitions**

To assist Council to consider a submission by way of a petition the following will be required:

- The petition is to clearly identify the application and the nature of the objection or support given on each page of the document.
- Each name entry is to be provided by way of printed form and signature to enable verification. Each name entry must provide relevant address details.
- A head petitioner is to be identified so that Council may contact the group through this person.

### **3.8.2 Receipt of Submissions**

Submissions may be received by mail, facsimile or email provided they are received prior to 4.30pm on the last day of the notification period.

An email or letter acknowledging receipt of a submission will be issued within 5 working days of its receipt.

## **3.9 CONSIDERATION OF SUBMISSIONS**

Written submissions are to be received by Council by the due date otherwise they will not be considered as part of Council's assessment of the development application.

Petitions and form letters will be treated as a single submission relating to a development application.

Should the determination of a development application be considered by the elected Council, all persons who lodged a submission will be provided with advice detailing that Council is considering the development application at the nominated meeting and that members of the public are able to attend.

Written submissions cannot remain confidential (unless otherwise specified for appropriate reasons) and may be referred to the applicant as they may be used to assist in negotiations with the owners/applicant of the proposed development. Submissions may also be the subject of Government Information (Public Access) Act requests and included in Council business papers.

## **3.10 POST DETERMINATION NOTIFICATION**

### **3.10.1 Those who made submissions**

Council will notify all those who made submissions of the determination of an application by a letter dated and posted or email within 14 days from the date of determination.

### **3.10.2 General public**

Council will provide a notice in the local newspaper on a regular basis including a list of all determinations in accordance with the relevant legislation at the time.

Council will maintain a register of 'Reasons for Decisions' on its web site.

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<b>Maintained by Department:</b>	Economic Development and Environment	<b>Approved by:</b>	Council	<b>Exhibition Date:</b>	Insert date advertised from 9/11/18 to 30/11/2018
<b>Reference:</b>	Policy Register	<b>Council Policy No:</b>	7.5	<b>Effective Date:</b>	Date of Council resolution to adopt
<b>Min No:</b>	Council meeting minute number	<b>Version No:</b>	3	<b>Review Date:</b>	Date July 2018
<b>Attachments:</b>	Nil				

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