

BERRIGAN SHIRE COUNCIL

**DEVELOPMENT ASSESSMENT
AND CONTROL
COMMUNITY
CONSULTATION POLICY**



Adopted 19-07-2006

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1. INTRODUCTION

1.1 Name of Policy

This policy is called the DEVELOPMENT ASSESSMENT AND CONTROL COMMUNITY CONSULTATION POLICY.

1.2 Land to which this Policy applies

This Policy applies to all land in the Shire of Berrigan to the Berrigan Local Environmental Plan 1992 applies.

1.3 Relationship to other Plans

Where there is an inconsistency between this Policy and any environmental planning instrument applying to the same land, the provisions of the environmental planning instrument shall prevail. An environmental planning instrument includes a State Environmental Planning Policy (SEPP), a Regional Environmental Plan (REP), a Local Environmental Plan (LEP) and a deemed Environmental Planning Instrument.

Where there is an inconsistency between this Policy and any other Development Control Plan in force, the provisions of the later Development Control Plan shall prevail.

2. AIMS AND OBJECTIVES

This document outlines Council's policy for community consultation in the assessment of development applications. This document also outlines the necessary procedures involved in carrying out such consultation.

The objectives of this policy are to:

- Establish a comprehensive and consistent process for community consultation;
- Ensure that where relevant the community is consulted during the decision-making process regarding development applications and that submissions received are taken into consideration by Council;
- Ensure that decision-making and policy formulation is undertaken in a wider and more informed context, especially having regard to the environmental, social and economic impacts associated with development.
- Ensure public participation is invited in accordance with the provisions of the EP&A Act 1979 for defined designated development, State Significant Development, and other advertised development proposals.
- Protect the public interest
- Prevent unnecessary delays in the assessment process of straight forward development applications, where in the opinion of the Council or its

delegates, there is unlikely to be any adverse impact on the locality or affect upon adjoining owners.

3. COMMUNITY CONSULTATION – DEVELOPMENT APPLICATIONS

3.1 Statutory Situation

Council has certain obligations under the Local Government Act, 1993 and the Environmental Planning and Assessment Act 1979, (EPA Act) to notify owners of land whose enjoyment of that land may be effected by proposed development.

Certain categories of development (i.e. Designated Development, State Significant Development, Integrated Development and Advertised Development) are required to be exhibited in accordance with the procedures for notification prescribed by Section 79 of the EPA Act and Divisions 5, 6 & 7 of Part 6 of the Regulations. Notice of the public exhibition of an Environmental Impact Statement prepared under Part 5 of the EPA Act in respect of an 'activity' for which development consent is not required, must be given in accordance with Division 3 of Part 8 of the Regulations. *This policy must be read in addition to those requirements.*

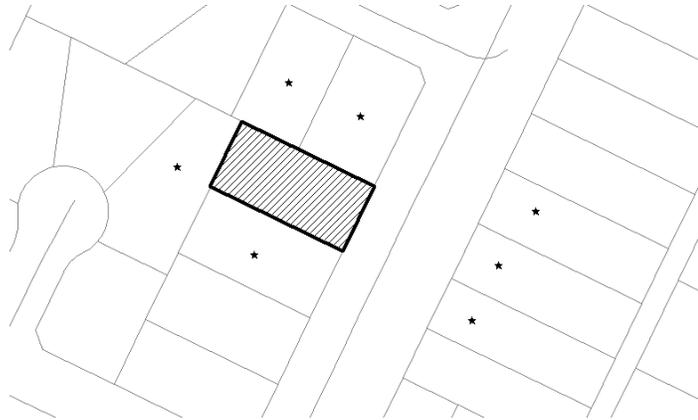
3.2 Public Notification

All adjoining and adjacent property owners, **who in the opinion of Council**, may be effected by a development proposal shall be notified in writing.

In this regard certain activities are generally considered to be minor and unlikely to adversely affect adjoining owners, or are identified **exempt or complying development**. These may be exempt from notification (refer section 3.12). Other development is required to be formally advertised in a local newspaper by an environmental planning instrument.

The following person(s) may be formally notified in writing:

- These persons who own land either adjoining to the side and rear boundaries, directly opposite, or adjacent to the subject land. (See Diagram)



★ Properties to be notified  Development property

- An association for a community, precinct or neighbourhood parcel within the meaning of the Community Land Development Act, 1989 or a body corporate for a parcel within the meaning of the Strata Titles Act 1973 or the Strata Titles (Leasehold) Act 1986.
- If, in the opinion of Council or its delegated officers, the enjoyment of any other land may be affected by the proposed development:
 - The owners of such other land;
 - The owners of land separated only by a pathway, driveway or similar thoroughfare from the proposed development.

3.3 Notification in Local Newspaper – Advertised Development

Berrigan Local Environment Plan 1992 requires certain development proposals to be advertised for a period not less than 14 days in order to invite public participation in the assessment process.

Formal notification will be given in a local newspaper such as the Southern Riverina News or Cobram Courier on at least one (1) occasion for the following advertised development:

- Boarding Houses
- Brothels
- Commercial Development (excluding change of use and minor alterations and additions)
- Dual Occupancies
- Extractive Industries
- Heritage Items
- Hotels / Motels
- Intensive Livestock Keeping
- Industries within the rural zones
- Junkyards, liquid fuel depots, sawmills, stock and saleyards
- Residential flat buildings
- Villa units

In addition to prescribed “advertised” development proposal, the Council may consider that community interest in a development proposal may be wider than the immediate vicinity of the development site. In such instances, the Council may also require such proposal to be notified in a locally circulating newspaper.

NB: Where a development proposal is required to be advertised the Council will require payment of an advertising fee as set by Council in the annual management plan.

3.4 Criteria for Neighbour Notification

The extent of neighbour notification will be determined having regard to the following:

- The siting of the building and its proximity to boundaries;
- The design of the building, and in particular its height, bulk and scale and its relationship to the character of existing development in the vicinity and the streetscape;
- The use of proposed rooms and the possible effect on adjoining land due to overlooking and loss of privacy;
- The views to and from adjoining land;
- Any overshadowing of adjoining land;
- Natural drainage of the site, and possible changes in response to the proposed works and the impacts that this may have on adjoining properties;
- The likelihood of the adjoining land being detrimentally affected by noise;
- Any relevant matter for consideration under section 79C of the EPA Act.

3.5 Form of Notice

A written notice shall contain the following information:

- The property description or address of the site affected by the application;
- A description of the specific development for which approval is being sought;
- The name of the applicant;
- An invitation to inspect the application;
- Details of where the application can be inspected;

- A statement that any person may make a submission in writing;
- The time within which written submissions will be received.
- Advice that:
 - The substance of written submissions may be included in a report to Council;
 - Council is subject to Freedom of Information legislation and that copies of written submissions may be made available to any persons entitled to lodge an application under this legislation.

3.6 Signs

A sign may be erected to identify those sites, the subject of a development application, if the Development Manager or his / her delegate considers such a sign to be appropriate having regard to the nature of the application or the location of the site.

3.7 Plans to Accompany Notice

Notice of a development application must be accompanied by plans of the proposed building / structure, in an approved form, showing the height and external configuration of the building / structure in relation to the site on which it is proposed to be erected. Such plans must:

- Be clearly drawn to scale of 1:100 (min) or to the satisfaction of Council;
- Include all elevations sufficient to delineate the height and external configuration of the proposed building;
- Include a site plan showing the relationship of the proposed building to the boundaries of the allotment;
- Identify any new buildings or additions to existing buildings by means of cross hatching or colour;
- Be clearly dimensioned to indicate size, height, and position of building;
- Indicate the levels of floors, ceilings and ridges in relation to the levels of the site and accurate ground levels adjacent to the elevations of the building being shown;
- Include any other information Council, or its delegated officer, considers appropriate.

Should the form of plan and details defined and described be inappropriate to the circumstances of the case of the proposal, the plan shall be in a form approved by the Development Manager or his / her delegate.

To facilitate the distribution of plans of the proposal to those owners or persons required to be notified, the applicant shall submit two (2) A4 copies of the plan in the approved form or such further copies as may be required in the circumstances of the case.

3.8 Exhibition Period

An application shall be available for inspection from the date of notice of the application for a minimum period of seven (7) working days or such additional period as determined by the Development Manager or his / her delegate.

During the exhibition period, any person may inspect, free of charge, during the ordinary office hours of Council, an application which has been notified whether or not that person has been, or is entitled to be, given notice under the provisions of this policy.

Extracts of a development application relating to the erection of a building will be made available, upon request, to interested persons free of charge. This information shall include:

- Details of the applicant and the land to which the application relates; and
- A plan of the building that indicates its height and external configuration, as erected, in relation to the site on which it is to be erected.

Copies of Environmental Impact Statements, which accompany designated developments, are available for purchase from Council or the applicant.

3.9 Submissions

Submissions in respect of an application must be received by Council within seven (7) working days of the date appearing on the notice of the application or alternatively, within such additional period as may be determined by the Development Manager or his / her delegate.

A submission may be made by any person whether or not that person has been, or is entitled to be, given notice under the provision of this Policy.

Submissions must be made in writing and if by way of objection, must state the reasons for objection. All submissions must be addressed to the General Manager.

All submissions will be acknowledged, and it may be possible to address Council through Open Forum at the Ordinary Meeting of Council.

3.10 Council must consider all submissions

In determining applications, Council and / or delegated officers of Council, must consider all submissions received within the period allowed for making submissions under the provisions of this policy, before the application is determined.

Nothing in this policy prevents Council or its delegated officers from considering submissions that are received outside of the seven (7) day period, provided the application has not already been determined.

3.11 Notification of Determination of Application – Persons making Submissions

Any person who makes a submission in relation to an application must be notified, in writing, of Council's decision.

3.12 Exemptions from notification procedure

If, in the opinion of Council, a development is minor and persons will not be detrimentally affected by a proposed building after its erection, then Council may not follow the notification procedure. Other circumstances that may give rise to Council not following the notification procedure include:

- The proposal is identified as exempt development under Council's Local Environmental Plan and therefore, does not require Council approval for the work to be carried out;
- The proposal is identified as being complying development under Council's Local Environmental Plan, and therefore complies with predetermined and accepted development standards;
- Single storey dwellings and associated outbuildings to be located on land within established residential precincts or on land within a rural zone where a dwelling is permissible under Berrigan Local Environmental Plan 1992, and which comply with the standards set by the Council and the Building Code of Australia.
- The occupation of retail, commercial or industrial premises (other than those considered to have a significant effect on the surrounding owners or the community);

Note: In some circumstances, the change in use of a premise does not require development consent eg. Change of retail use to another retail use;

- Applications for the erection of an advertising sign located on a site in the Commercial area, upon which the business is located;
- Subdivision applications involving minor boundary adjustments or strata subdivisions;
- Minor commercial and industrial additions that are considered to be in keeping with surrounding developments and the local environment;
- Amendments made in response to objections received;
- Amendments which are the result of conditions imposed on an application previously notified.

4. PUBLIC MEETINGS

4.1 Resident Briefing Meetings

Where Council has received numerous objections to a development proposal a Resident Briefing Meeting may be organised immediately following an exhibition period.

The aim of a Resident Briefing Meeting is to provide a forum within which concerned residents, the applicant, Councillors and Council staff can meet to discuss a proposal, review concerns and examine possible solutions.

A Resident Briefing Meeting involves only those residents who have objected / raised concerns regarding a proposal and the applicant. It is not necessarily a public meeting. In this regard, only those persons who have made submissions will be notified of the meeting, in addition to the applicant.

4.2 Public Meetings

Where it is considered a development proposal will generate significant community interest, Council may arrange a public meeting so that:

- Details of the proposal can be more fully explained;
- Community concerns can be discussed; and
- Conflicts can be identified and possibly resolved

Councillors, Council staff, the applicant and interested parties, attend public meetings.

Public Meetings must be publicly notified in a local newspaper at least five (5) days prior to the meeting. Any local community forum or precinct committee will also be advised in writing of the public meeting.

5. THE FORMULATION OF DEVELOPMENT GUIDELINES

5.1 Development Control Plans

Development Control Plans (DCPs) are prepared under section 72 of the EPA Act, 1979, and clause 17 of the Regulations. The following consultation provisions apply for the preparation of a draft DCP. Council must:

- Give public notice in a local newspaper of the places, dates and times for inspection of the draft DCP;
- Publicly exhibit at the places, on the dates and during the times set out in the notice:
 - A copy of the draft DCP;
 - A copy of the relevant local environmental plan or deemed environmental planning instrument;

- Must specify in the notice the period during which submissions about the draft DCP may be made to Council. Such must include the period during which the plan is publicly exhibited;
- A draft DCP must be publicly exhibited for a minimum period of 28 days.

In addition to the legislative requirements for public exhibition and notification, the following consultation procedures are also required to be undertaken;

- Where a draft DCP refers to development guidelines (eg. Car parking guidelines), a copy of the draft DCP will be referred to those who may have an interest in the particular development guidelines including:
 - Development industry representatives such as architects, designers, builders, surveyors, real estate institute, planning consultants and engineers;
 - Resident groups and precinct committees;
 - Chamber of Commerce and Industry, or the like;
 - Tourist attractions.
- Where a draft DCP relates to a specific geographical area, owners of land within, and immediately adjoining, the area affected by the draft DCP will be notified.

5.2 Council Policies

Where Council has resolved to prepare Development Guidelines or Policies, these must be exhibited for a minimum period of twenty eight (28) days. Public Notice must be given in a local newspaper(s). The notice must:

- Detail the places, dated and times for inspection of the draft guidelines / policy;
- Specify the period during which submissions may be made.

5.3 Workshops

If substantial interest is generated from the public exhibition of a draft development control plan, or draft policy, Council may hold a workshop.

The reason for a workshop is to provide:

- An opportunity to explain draft guidelines;
- Community concerns can be discussed;

- Conflicts can be identified and possibly resolved.

The following procedure will be followed when organising a workshop:

- Workshops are attended by Councillors, staff and interested parties;
- Workshops are required to be publicly notified in a local newspaper at least five (5) days prior to the meeting. Persons who make submissions in regard to a policy will be individually invited by letter to attend the workshop.

The need for a workshop must be identified early in the process. The following matters should be considered:

- Interest in Guidelines (are guidelines used by wider community?);
- History of concerns by community over issues addressed in guidelines;
- Level of interest shown during exhibition process.

The results of the exhibition and workshops must be reported to Council. The nature of submissions received and proposed actions will be outlined in the report.