

**DIRECTOR SUSTAINABLE DEVELOPMENT
SERVICES REPORT**

14 June 2005

**DSDS7 REVIEW OF PUBLIC NOTIFICATION POLICY
FILE: 526 KJW****SUMMARY:**

Reporting that the draft amendments to the Public Notification Policy have been on public exhibition for 28 days with comments received.

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Background

Following amendments to DCP 30 "Exempt and Complying Development" in May 2004, Council requested a review of the effectiveness of the changes to be reported to Council within twelve (12) months, which incorporated Council's Public Notification Policy.

Whilst there have been very few complaints relating to the adequacy of Council Public Notification Policy, it is apparent that clarification of the role of notification in the development assessment process is required.

The amendments appear underlined and in bold face in the text of the Draft Policy. [\(Appendix U\)](#)

The changes made to the Policy are intended to clarify the Policy for public and staff.

A summary of the changes are as follows:

- Inclusion of a preamble to clarify where and the purpose of the Policy.
- Extension of the objectives of the Policy to include the importance of community consultation and participation in the development assessment process.
- Additional clauses have been inserted to clarify who receives notices. Tenants on adjoining land are not advised as Council does not record the particulars of occupants, however, any person may make a submission. If the adjoining land is Strata Title, the corporate body will receive the notice and not the individual owners.

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- Where adjoining land is owned by more than one owner, a notice to one owner will satisfy the Policy. If the proposal is likely to attract significant public interest neighbouring land owners will be notified. If the development is on the boundary of the Shire, adjoining owners in the adjoining Council area will be notified.
- The method for determining applications includes a new section on the importance to consider submissions and balancing it with Councils statutory obligations. Submissions form part of the assessment process and provide the public with the opportunity to assist Council to ensure that all relevant matters are taken into consideration.
- Clarification has been provided that where a submission is a petition, Council will only advise the main proponent.
- Survey of other major coastal Councils as to the length of their exhibition period indicated fourteen (14) days was the industry standard.

Council's present exhibition period is ten (10) days. Given the intention to encourage utilisation of Complying Development, applications requiring notification will relate to more complex proposals and an increase in the notification period is justified.

- It is noted that dwellings relocated from another property have been of concern in recent times and should require notification/advertising to address issues such as visual amenity.
- Other types of development that have been included in the exemption list are demolition of buildings, except any item of environmental heritage or within any conservation area, commercial and industrial development, or where the site borders residential land.
- Clarification of amended and modified applications has been included. Amended application is where an applicant applies to alter an application prior to a consent being issued. Modified application is after a consent has been issued.
- Inclusion of provision for a review of determination where Council will advise all original submission writers that their submissions will be considered with the review, and Council will advise them of their decision.
- Inclusion of a section to identify fees and charges for notification/advertising in accordance with Council's Fees and Charges Schedule.

For 2005/2006 the fee has been increased to \$120.

- A new Section has been included to define terms used in the Policy.

It is also proposed to introduce an “Information – Notification Process” leaflet to be sent with notification letters to advise owners of the process. [\(Appendix V\)](#)

Public Exhibition

As Council is also reviewing DCP 30 which was required to be placed on public exhibition for a period of at least 28 days, although not obliged to do so, it was considered reasonable to allow public comment on the “Public Notification Policy” concurrently with the DCP and the required draft LEP amendment. Council received three (3) submissions which may be summarised as follows: [\(Appendix W\)](#)

Objection	Planning Comment
<p>1 Karen Gribbin</p> <p>(a) Most councils notify neighbours on all developments.</p> <p>(b) Complying and Local Development can have detrimental ramifications for adjoining properties.</p> <p>(c) Development Control officers should not identify properties which are likely to be impacted.</p>	<p>1</p> <p>(a) Complying Development is not been advised to the adjoining owners. Councils similar to Kempsey advise adjoining owners of some local development applications which may cause an impact or identified in a policy. The current trend is to reduce notification for simpler proposals, whilst maintaining notifying of more complex proposals.</p> <p>(b) Complying Development is required to meet set standards which are designed to ensure that minimal impacts on adjoining premises are likely and therefore does not require notification. Local Development which is not notified to adjoining owners is still required to be assessed under the EP&A Act Section 79C to ensure that no unacceptable impacts will result.</p> <p>(c) If an application does not fall within section 7 of the policy, all adjoining land owners are required to be advised of the</p>

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| | <p>application. In carrying out a site inspection, the officer is required to assess if neighbouring land owners should be advised.</p> |
| (d) If an objection is received and can be resolved the matter should be discussed with both applicant and owner/occupation. | (d) Clause 4(b)(ii) is an existing delegation that is being clarified. If amendments cannot be agreed to, applications will be referred to Council for determination. Negotiations with multiple objectors is time consuming and agreements would often not be reached. |
| (e) If condition existing point 3(b) [new 4(b)(iii)] remains then existing point 3(c) [new condition 4 (b)(iii)] should be deleted. | (e) The point should remain as it allows developments to be approved with specific conditions applied to address the objections. If conditions can't be applied, the application would need to be referred to Council. |
| (f) Back log of development application being cleared at the expense of existing owner/occupiers. | (f) Proposed changes are not recommended to address any short term back log of development applications. Proposed changes are recommended to compliment changes to DCP 30 to streamline the assessment process for simple applications in response to criticisms levelled at all Council's in NSW. Council is currently exempted from a State imposed Exempt and Complying Development SEPP on the basis of DCP 30. |
| (g) Who will be delegated officers? | (g) Council delegates all functions to the General Manager. The General Manager delegates functions to suitably qualified and experienced officers. Those officers are town planners and building surveyors. |
| (h) To which Department will | (h) Development control is |

<p>Development Control Officers be attached?</p>	<p>currently a function of Sustainable Development Services.</p>
<p>(i) Move to take control from Councillors driven decisions.</p>	<p>(i) Council sets policies and guidelines for delegated staff to work within. Without delegation to officers within clearly defined limits, Council meetings would be swamped with consideration of minor applications that comply with Council's policies.</p>
<p>2 Friends of South West Rocks</p>	<p>2</p>
<p>(a) Altering the objectives could remove the opportunity for the public to comment.</p>	<p>(a) The objectives have been expanded to include the importance of public consultation in the development assessment process, commensurate with the scale of development.</p>
<p>(b) Change from "Development Control" to "Delegated" means that person of lesser qualifications and/or experience.</p>	<p>(b) Council delegates all functions to the General Manager. The General Manager is responsible to delegate functions to suitable persons.</p>
<p>(c) Occupiers of adjoining properties will not be advised which will be detrimental to the process and should be deleted.</p>	<p>(c) Council has never advised occupiers of premises as it does not hold records of occupiers.</p>
<p>(d) Where an adjoining property is owned by more than one person all owners should receive notice. It is not up to that person to advise all neighbours.</p>	<p>(d) Council will continue to send letters to the persons and addresses identified for the service of notices. As with Rates and other notices, it is the responsibility of the nominated contact to advise any other owners.</p>
<p>(e) Request to alter "may notify" to "will notify" in point 3(f).</p>	<p>(e) Agreed. The policy should be amended to provide that where Council considers that a development application is likely to result in significant impacts, Council will advise</p>

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| <p>(f) Clause 7 public should be informed of the difference between the Exhibition and Advertising.</p> | <p>adjoining owners.</p> <p>(f) There is a difference which is identified in the section "interpretation". "Advertising" means an advertisement in the local press and "Notification" includes a letter to adjoining owners. Exhibition is being deleted.</p> |
| <p>(g) "Development Control Officers" should not be altered to "Delegated Officers".</p> | <p>(g) The term "Delegated Officers" is generic and accounts for changing titles over time.</p> |
| <p>(h) Alteration and additions to single dwellings should be notified and advertised. Adjoining owner should always have the opportunity to object.</p> | <p>(h) Single storey dwellings, additions and alterations to single storey dwellings have not been notified or advertised under the current policy. Residential work would need to comply with all requirements of DCP 22. If a proposal is likely to result in adverse impacts, notification may still be required, whether or not in compliance.</p> |
| <p>(i) Request for a review of a determination should be re-advertised.</p> | <p>(i) A request to review a determination is to reconsider the determination that has been issued. The Act allows modifications in requesting a review provided the development remains substantially unaltered. Persons who made previous submissions will be notified, however, as only minor amendments can be applied for readvertising is not necessary.</p> |
| <p>(j) Council made extensive amendments a little over 12 months ago, no reason to review.</p> | <p>(j) Council previously resolved to review DCP 30 within 12 months to assess the impacts of increased Complying Development. Part of DCP 30 is Public Notification Policy. Council was concerned that increased use of Complying</p> |

3 South West Rocks 3 Ratepayers

Objects to any amendments which would reduce the existing requirements to notify affected landholders of Development Applications.

Development may cause complaint which has not eventuated.

No examples identified. The changes made to the policy are intended to clarify the policy for public and staff.

REPORT IMPLICATIONS:

- ***Environmental***

Provide a Policy for the notification of applications which Council can then assess in accordance with Environmental Planning and Assessment Act.

- ***Social***

Provide an opportunity for the public to participate in the development assessment.

- ***Economic (Financial)***

Policy will include a Section "Fees and Charges" which will identify the fees applicable for full cost recovery of the service.

- ***Policy or Statutory***

To provide a Policy to set out Council's requirements for the notification and advertising of development applications.

- ***Directors Comment***

Council has benefited by considerable efficiencies achieved through increased utilisation of Complying Development and reduced notification and no complaints concerning any Complying Development have been received.

Council needs to balance the need to involve the public in the development application process with the increasing demands on limited resources.

The recommended changes seek to achieve this balance, the success of which will be gauged by the community. It is recommended that the Policy be reviewed again in twelve

(12) months to either consider further relaxation or tightening, depending on any community response.

RECOMMENDATION

- A** That Council resolve to adopt Public Notification Policy, the subject of this report, effective from the date of public notification.
- B** That the effectiveness of the Policy be reviewed within 12 months.
- C** That the people who made submissions be thanked for their input.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES