

PART H – **“NOTIFICATION –Development Control”**

H.1 INTRODUCTION

H.1.1 Name Of Plan

This Plan is called The Oberon Council Development Control Plan Part –H “Notification of Development applications.

H.1.2 Land To Which This Plan Applies

This Plan applies to all land in the Oberon Council Area to which the Oberon Local Environmental Plan 1998, applies.

H.1.3 Operation Of The Plan

This Plan has been prepared in accordance with Section 72 of the EP & A Act, 1979, and accompanying Regulations.

H.1.4 Relationship With Other Plans

Where there is a discrepancy or inconsistency between this Plan and any environmental planning instrument** applying to the same land, the provisions of the environmental planning instrument shall prevail.

*** An environmental planning instrument includes State Environmental Planning Policy (SEPP), Regional Environmental Plan (REP), Local Environmental Plan (LEP) and a deemed Environmental Planning Instrument.*

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

H.2 AIMS & OBJECTIVES

This Development Control Plan outlines Council’s policy for community consultation in the assessment of development applications and the formulation of development guidelines and policies. The Plan also outlines the necessary procedures involved in undertaking such consultations.

The objectives of this Plan are to:

- Establish a transparent and consistent approach to community consultations;
- Ensure that the community is appropriately consulted;
 - during the decision making process regarding development applications;
 - during the formulation of development guidelines & policies;and that submissions received are taken into account by Council.
- Ensure that decision making and policy formulation is conducted on a wider and more informal context, with regard in particular, to environmental, social and economic impacts associated with development;
- To outline who will be notified and under what circumstances notification will occur;
- To outline the period during which a person may inspect plans and the period during which submissions concerning a development application may be made;

- To outline the matters to which Council will have regard as to whether or not the enjoyment of adjoining and or adjacent land may be affected by proposed development;
- To outline how submissions received will be considered by Council; and
- To outline how persons who made submissions/objections in the appropriate format will be notified of the determination made.

H.3 COMMUNITY CONSULTATION - DEVELOPMENT APPLICATIONS

H.3.1 Statutory Situation

Council has certain obligations under the Local Government Act, 1993 and the Environmental Planning and Assessment Act 1979, (EPA Act) and The Oberon Local Environmental Plan 1998 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 6 & 7 of Part 6 of the Regulations. Notice of the public exhibition of an Environmental Impact Statement prepared under Part V 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 Plan must be read in addition to those requirements.

H.3.2 Public Notification

All adjoining and adjacent property owners, who in the opinion of Council's Environmental Health Officer, Building Surveyor and/or Development Control Officers, may be significantly 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). The following person(s) may be notified:

- Those persons who own land either adjoining to the side and rear boundaries, or adjacent to the subject land.
- 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.

The Developer shall, in accordance with the fees and charges schedule in Council's Management plan, meet the costs of the notification.

NOTE: (a) When a development application is received for Dual Occupancy development, Medium or High Density development in the Oberon village area, adjoining owners are to be notified of the application by registered mail.

(b) When a development application is received for a Wind Monitor, Council and property owners within a radius of 2 kilometres are to be notified.

(c) Development Applications received for Wind Monitors must be referred to Council prior to determination.

H.3.3 Notification In Local Newspaper - Advertised Development

Notification will also be given in a local newspaper (The Oberon review on at least two (2) occasions for the following advertised development.

- u Boarding Houses;
- u Brothels;
- u Demolition of a heritage item;
- u Heritage Items;
- u Extractive Industries;
- u Hotels / Motels;
- u Intensive Livestock Keeping;
- u Industries- other than in the industrial area of the Oberon Village;
- u Liquid Fuel depots;
- u Medium & high density housing;
- u Junk yards;
- u Residential Flat Buildings and duplexes;
- u Sawmills;
- u Stock & Sale yards; and
- u Tourist Facilities.

In addition where Council's Environmental Health Officer, Building Surveyor, Development Control Officer or other delegate considers that community interest in a development proposal may be wider than the immediate vicinity of the development site, notification may also be given in a local newspaper.

H.3.4 Criteria For Neighbour Notification

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

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

H.3.5 Form Of Notice

A written notice shall contain the following information:

- u The property description and address of the site affected by the application;
- u A description of the specific development for which approval is being sought;
- u The name of the applicant;
- u An Invitation to inspect the application;
- u Details of where the application can be inspected;
- u A statement that any person may make a submission in writing;
- u The time within which written submissions will be received.

Advice that:

- the substance of written submissions may be made available to the applicant and may also 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 that legislation.
- indicating that an objector **does not have the power of veto** over the development.

H.3.6 Signs

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

H.3.7 Plans To Accompany Notice

- A notice of a development application may be accompanied by plans of the proposal in an approved form, or alternatively the recipient advised that the plans may be viewed at Council office. The plans will need to show the height and external configuration of any building/structure in relation to the building site. Such plans must:
 - Be clearly drawn to a suitable scale.;
 - 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 that allotment, indicating existing features such as trees, fences and structures;
 - Identify any new buildings or additions to existing buildings by means of colouring or cross hatching or otherwise;
 - Be clearly labelled and 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 circumstance of the case of the proposal, the plan shall be in a form approved by Council's Building Surveyor.

To enable the distribution of plans to persons required to be notified, the applicant shall submit a minimum of four (4) A4 or A3 copies of the plan in the approved form or such further copies as may be required in the circumstances.

H.3.8 Exhibition Period

An application shall be available for inspection from the date of notice of the application for a minimum period of fourteen (14) days or such additional period as determined by the Council Building Surveyor.

During the exhibition period, any person may inspect by appointment, 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 Plan.

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:

- u details of the applicant and the land to which the application relates; and
- u 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 statements of Environmental Effects or the like which accompany development applications or extracts thereof may be available at copy cost.
- Copies of Environmental Impact Statements, which accompany designated developments, are available for purchase from Council for a price as set by Regulation.

H.3.9 Submissions

Submissions in respect of an application must be received by Council within fourteen (14) days of the date appearing on the notice of the application or alternatively, within such additional period as may be determined by the Council.

Any person may make a submission. 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.

It may be possible to address Council through Open Forum at an ordinary Meeting of Council or Council's Planning Policy Committee by arrangement with Council staff.

H.3.10 Council Must Consider All Submissions

In determining applications Council and/or delegated officers of Council, will consider all submissions before the application is determined.

Nothing in this Plan prevents Council or its delegated officers from considering submissions that are received outside of the fourteen (14) day period, provided the application has not already been determined.

H.3.10.1 How will Submissions be Considered

- If a written submission is an objection then the submission and the application will be referred to the Council for consideration.
- Should no objection be lodged then the application will be processed under delegation by Council staff.

H.3.11 Notification Of Determination Of Application - Persons Making Submissions

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

H.3.12 Exemptions From Notification Procedure

If, in the opinion of Council's Building Surveyor or other delegated officers, a development is routine or minor and persons will not be significantly detrimentally affected by a proposal, then Council may not follow the notification procedure. The circumstances that may give rise to Council not following the notification procedure include:

- The proposal is identified as exempt development or similar to 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 or similar to complying development under Council's Local Environmental Plan, and therefore complies with predetermined and accepted development standards;
- 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 at a premise does not require development consent
eg: Change of retail use to another retail use)*

- Applications for the erection of an advertising sign below awning level located on a site in the CBD area upon which the business is located in accordance with Council policy;
- Application for internal alterations to a building;
- Application for construction of a dwelling other building work which is typical for the zone;

- Applications for renovation such as re-cladding of buildings, replacement of windows, doors or shop fronts where the works are contained entirely within the building envelope;
- Applications where in the opinion of Council the amenity of adjoining and or adjacent properties is not affected;
- 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.

H.4 PUBLIC MEETINGS

H.4.1 Resident Meetings

Where Council has received numerous objections to a development proposal a resident meeting may be organised following an exhibition period. Council may decide to receive submissions after the resident meeting.

The aim of a resident meeting will be 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 in an informal manner.

A resident 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.

H.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, which will generally be publicly notified in a local newspaper at least five (5) days prior to the meeting. Furthermore any person objecting to the development or local community forum or precinct committee may be individually invited to attend the public meeting as well as the applicant.

H.4.2.1 Focus Meeting

As part of the Public Meeting process, wherein the opinion of Council or its delegate a development proposal will generate significant interest Council may prior to formal notification or simultaneously arrange a Focus Meeting to detail the proposal more fully to interested parties to avoid misinformed and inappropriate submissions.

H.5 THE FORMULATION OF DEVELOPMENT GUIDLINES

H.5.1 Development Control Plans

Development Control Plans (DCPs) are prepared under section 72 of the EPA Act, 1979, and Part 3 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;
- 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;
- publicly exhibit the Draft DCP 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 a copy of the draft DCP may 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;
 - The Oberon Business Association, The Oberon Tourist Association 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 may be notified.

H.5.2 Council Policies

Where Council has prepared 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, dates and times for inspection of the draft guidelines/policy;
- Specify the period during which submissions may be made.

H. 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 to provide:

- An opportunity to explain draft guidelines;
- An appropriate forum where Community concerns can be discussed;
- Opportunity to identify and possibly resolve potential and perceived conflicts.

The following procedure will be followed when organising a workshop:

- Workshops may be 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 will be reported to Council with the nature of submissions received and proposed actions outlined in the report.