



Bellingen Shire Development Control Plan 2017

Chapter 11
Advertising & Notification of
Development Applications

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Table of Amendments

Amendment	Date Adopted	Date Commenced
Minor review of DCP - DCP 2017 replaces DCP 2010	22 November 2017	6 December 2017

11.1 Aims

- a) To enable consultation with the community for certain types of development so that Council can be aware of all the relevant issues and community concerns before determining a development application.
- b) To identify who will be notified of an application received by Council.
- c) To identify categories of development that will be publicly exhibited and/or notified prior to Council assessment.
- d) To identify how the community and public authorities will be notified of specific proposals.

11.2 Where This Chapter Applies

The provisions of this chapter apply throughout all areas of Bellingen Shire, unless any site specific development controls included in this chapter, or in later chapters of this DCP nominate alternative requirements. In this case, the provisions of the site specific development controls shall prevail.

11.3 When This Chapter Applies

The provisions of this Chapter apply to development applications received by Council under Part 4 of the *Environmental Planning and Assessment Act 1979*. The provisions also apply to applications to modify a development application or requests to review a development consent.

However, this Chapter does not apply to designated development, nominated integrated development or state significant development.

11.4 Definitions

Definitions of development are the same as those contained within the Bellingen Local Environmental Plan 2010.

11.5 Variations

- 1) Council may vary or dispense with requirements relating to the advertising and notification of development applications in the following circumstances;
 - i. When a development site possesses an excessive number of adjoining or adjacent allotments (eg: large parks, sports grounds), Council shall have the discretion to notify only those properties that are likely to be directly affected by the development and/or have the discretion to advertise the development as an alternative to notification. In considering those properties that are likely to be affected, Council shall have regard to the matters listed in Section 11.6.3 of this chapter.
 - ii. Council cannot however vary the requirement for notification of all adjoining owners for those categories of development specifically listed as “advertised development” in Section 11.6.2 of this DCP.
- 2) Council may extend the prescribed notification and advertising period in the following instances.
 - i. If, in the opinion of Council, the circumstances of the development warrant an extended period of public consultation.

- ii. If a request for an extension is made prior to the closing of the initial exhibition period and sufficient cause is shown as to why the exhibition period should be extended.
- 3) Council may decide to dispense with notification entirely, or partly, when Council is of the opinion that the application for development consent will have negligible impact upon the amenity of adjoining land or no adverse environmental impact. Similarly, if Council is of the opinion that an application requires broader public comment (when it would normally require notification only) Council may decide to advertise the development in accordance with the provisions outlined in Section 11.6.2.

11.6 Advertising & Notification Criteria

11.6.1 Level of information required for advertising or notifying of development applications

- 1) Council will not commence any required advertising or notification of development applications in circumstances where the application lacks sufficient detail or clarity for potentially interested parties to make informed comment on the proposal.

11.6.2 Advertised development

- 1) The following categories of development are considered to be “Advertised Development” for the purposes of this chapter and are classified as “other advertised development” in accordance with Section 5(2)(d) of the *Environmental Planning and Assessment Regulation 2000*.

air transport facility
 airport
 airstrip
 biosolid waste application
 brothel
 bulky goods premises
 caravan park
 charter and tourism boating facility
 community facility
 correctional centre
 crematorium
 eco-tourist facility
 educational establishment
 electricity generating works
 entertainment facility
 exhibition village
 extractive industry
 freight transport industry
 funeral home
 heavy industrial storage establishment
 heavy industry
 helipad
 highway service centre
 hospital
 information and education facility
 intensive livestock agriculture
 marina
 mine
 place of public worship
 port facilities

pub
public administration building
recreation facility (indoor)
recreation facility (major)
recreation facility (outdoor)
registered club
research station
restricted premises
restriction facilities
rural industry
service station
sewerage system
sex services premises
subdivisions involving the creation of more than 15 additional lots
transport depot
truck depot
waste or resource management facility
water supply system

- 2) A development consistent with any of the definitions in Criteria 1) of this subsection shall not be considered to be “advertised development” for the purposes of this plan in circumstances where it only represents a minor addition/alteration to an existing facility or where it involves a minor development that is ancillary to the core function of the overall facility eg: toilet blocks, change rooms, play equipment, landscaping.
- 3) Where an application is received for a staged development, the initial development application will be advertised as per the requirements of this section. Any applications for stages following the initial application will not be further advertised, provided the application is in accordance with the approved masterplan.

11.6.3 Notifiable development

- 1) Development that is not defined as “Advertised Development” shall be classified as notifiable development, with the following exceptions:
 - i. minor and/or routine domestic development applications such as single dwellings, additions, garages, sheds and other similar outbuildings (except where the application involves a variation to a development control in the DCP 2010) or,
 - ii. development that is otherwise undefined in any environmental planning instrument or relevant piece of legislation or,
 - iii. minor developments incidental or ancillary to the core land use (eg: advertising signs, outdoor seating and the like),
- 2) Council will decide whether the proposal is “Notifiable Development” having regard to the following matters:
 - i. the views to and from the land,
 - ii. the likely impact of overshadowing on adjoining properties,
 - iii. the likely impact on the privacy of adjoining properties,
 - iv. the likely impact of noise on adjoining properties,

- v. the visual quality of the building in relation to the landscape and streetscape eg: two storey dwellings in a predominately single storey area,
- vi. the scale, height, design, or bulk of the proposed building,
- vii. if the proposal involves building work that would not normally be anticipated in a certain area, and
- viii. the compliance or otherwise of the development with any prescribed setbacks or standards relating to that form of development.

11.6.4 Advertising and notification periods and procedures

- 1) If a proposed development is considered to be “Advertised Development”, the application will be advertised and notified to adjoining owners for a period of 21 calendar days.
- 2) If a proposed development is considered to be “Notifiable Development”, the application will be notified for a period of 21 calendar days.

Note: An adjoining landowner is a person who owns land that abuts the land the subject of the development application or is separated only by a road, access handle, railway line or public pathway. Council may also notify other landowners who may be detrimentally affected if the development is carried out.

- 3) Advertised development requires the placement of an advertisement in the local newspaper and the notification of adjoining owners. Advertising and Notification requirements are stipulated in Clauses 87, 88, 89 and 91 of the *Environmental Planning and Assessment Regulation 2000*. Council may also, at its discretion, elect to advertise the application on a social media platform in instances where broader community consultation is considered desirable.
- 4) Information to be contained within a notification letter shall be the same as that required by Section 89(1)(a to f) of the *Environmental Planning and Assessment Regulation 2000*.

11.6.5 Modifications of development consents

A Development Consent may be modified in one of three ways. Advertising and Notification requirements are specified for each type of modification.

Minor Modification

- 1) Council may, on an application being made by an applicant, modify a development consent to correct a minor error, misdescription or miscalculation. There are no public advertising or notification requirements for minor modifications. All such applications will be dealt with under delegated authority.

Modification Concerning Minimal Environmental Impact

- 2) Council may, on application being made by the applicant, modify the consent if it is satisfied that the proposed modification is of minimal environmental impact.

Where an application for a modification of ‘minimal environmental impact’ is received by Council, there will be no requirement for the re-notification or re-advertisement of the application, whether or not there were submissions to the original DA. All such applications will be dealt with under delegated authority.

Other Modifications

- 3) Other types of modifications shall be notified or re-advertised in accordance with the following criteria:
 - i. When it is considered that a modified development may have a greater degree of adverse impact upon a property than the originally approved development, Council will notify any affected properties of the proposed modification (regardless of whether or not they were originally notified) in accordance with the provisions in Section 11.6.3 of this Chapter.
 - ii. When it is considered that a modified development would also be of interest or significance to persons that are not necessarily in close proximity to the site (ie. Large scale developments that have attracted high levels of previous interest, developments that are politically sensitive, developments involving issues that affect the community at large), Council will advertise the modification, regardless of whether or not the application was originally advertised in accordance with the provisions of Section 11.6.2 of this Chapter.

11.6.6 Amendments to development applications prior to determination

- 1) When a Development Application is amended during the course of processing, Council will not re-notify or re-advertise the amended application if Council is of the opinion that the amended or substituted application differs only in minor respects from the original and will have no greater environmental impact than that originally submitted. Examples of situations where amendments would not require re-notification or advertising include:
 - Amendments made to a development application in response to concerns raised in submissions received by Council in relation to that development application, or
 - Amendments made to a development application in response to concerns raised or advice provided by Council.

11.6.7 Administrative provisions

Acknowledgement of Submissions

- 1) When a submission has been received in relation to a development application during the public exhibition period, the submission will be acknowledged in writing.
- 2) When a submission in the form of a petition is received, an acknowledgement letter will be issued to the organiser of the petition, if they are able to be identified.

Development Applications lodged by a Councillor

- 3) Development Applications submitted by a Councillor shall be subject to the same notification and advertising provisions as any other development application received by Council, with the following exceptions as resolved by Council:
 - i. Any Councillor who has submitted a Development Application shall give notice of this at the first available Council meeting.

- ii. Any objections by other Councillors to the development application shall be made in writing during the notification period. The submission shall then be dealt with in the same manner as prescribed for any other submission.

Modifications to Development Applications originally approved at a Council meeting

- 4) If an application has been determined at a Council meeting, any subsequent application to modify the consent shall also be determined by Council. This does not apply however to modifications classed as "Minor" or modifications involving "Minimal Environmental Impact" as discussed in Section 11.6.5.

What is the procedure when an objection to a development application is received by council?

- 5) Where five (5) or less unique objections are received in response to a Development Application, the assessing officer may determine the application under delegated authority.

Note: For the purposes of this provision, petitions and multiple submissions received from different people residing at / owning a single property will be counted as only one submission.

- 6) Where more than five (5) objections are received in response to a Development Application, the application shall be referred to a Council Meeting for determination.

Note: Copies of submissions are publicly available documents. If the author/s of a submission does not wish their name and address details to be publicly available then Council needs to be advised of this in writing in the submission.

Notification to those who lodge submissions

- 7) If a Development Application is to be reported to Council for determination, those people who made a submission to Council regarding the application will be notified of the date of the meeting. Notification will take place as soon as possible after the circulation of the Business Paper to Councillors and will either be verbally, by letter, by fax or email.
- 8) Those people who have made submissions concerning an application to be determined by Council have the option of requesting to address the Council meeting. Anyone wishing to speak must lodge their request a minimum of 24 hours before the meeting with the Mayor's Secretary. Council will normally only permit one person to speak on behalf of objectors and one person to speak on behalf of supporters. There is a 5 minute time limit for each respective speaker.
- 9) Following the determination of the application, anyone who made a written submission will be notified of Council's decision in accordance with the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. This will be in the form of a letter which will be forwarded by email or through the post. For petitions, notification of Council's decision will be provided to the organiser of the petition.