

ITEM-2	REVIEW OF DEVELOPMENT CONTROL PLAN 2012 - INTRODUCTION AND RURAL SECTIONS (FP179)
THEME:	Balanced Urban Growth
OUTCOME:	7 Responsible planning facilitates a desirable living environment and meets growth targets.
STRATEGY:	7.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	23 JUNE 2015 COUNCIL MEETING
GROUP:	STRATEGIC PLANNING
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EXECUTIVE SUMMARY

This report recommends that changes to the Introduction and Rural sections of Council's Development Control Plan be publicly exhibited. It is further recommended that a planning proposal be forwarded to the Department of Planning and Environment to remove 'rural workers dwellings' as a permissible use across all rural zones in the Shire.

The review of the Development Control Plan has been undertaken as part of Council's initiative to reduce red tape in planning and development. Key changes involve reducing development application advertising to that required under legislation for major development types. This will remove the requirement for advertisement in a local paper and placing a notice on site for a range of local development (refer Attachment 1), however written notification to adjoining and adjacent land owners will still be undertaken for such developments.

It is also proposed to remove the requirement for written notification to adjoining and adjacent landowners for certain low impact developments such as rural sheds, fencing, tennis courts and strata subdivisions that comply with all applicable development controls. Rural development controls have been reduced and simplified and additional flexibility has been introduced for rural sheds, secondary dwellings and rural cluster subdivision.

The amendment of the Local Environmental Plan to remove rural workers dwellings as a permitted use is considered warranted given that such development is not appropriate and unable to be justified given the proximity to the urban area. The Department of Primary Industry policy guidance indicates such uses are appropriate for large scale rural enterprises in locations remote from major population centres.

APPLICANT

Council initiated

HISTORY**14/04/2015**

Council considered a briefing report on the review of rural development controls.

BACKGROUND

One of the core values of Council is to improve the level of service to the customer and improve their experience when dealing with Council. An area where Council receives a high volume of phone and over the counter enquiries is the development area. Typically Development Control Plans and Local Environmental Plans are complex documents developed in technical jargon that can be difficult to interpret for residents looking to carry out basic property development such as building a new house or shed.

On 10 September 2014 the government announced the 'Fit for the Future' package that seeks to reform the way in which local government operates. The reform package includes a commitment to reducing regulation and red tape. As part of red tape reduction initiatives, it is proposed that Council's Development Control Plan be simplified to assist in the delivery of an online self-service planning enquiry system and ultimately allow for online lodgement of development applications. The first phase is a review of the Introduction and Rural Sections of the Plan.

REPORT

The purpose of this report is to outline proposed changes to the Introduction and Rural sections of Council's Development Control Plan.

1. REVIEW OF INTRODUCTION SECTION

The current Introduction Section of the Development Control Plan currently contains information relating to advertising and neighbour notification requirements, the development application process, definitions and an explanation of submission requirements including guidance on the content of studies prepared to support development applications. This section has been reviewed and changes are proposed to make amendments to the advertising and notification procedures for certain development applications and simplify the information required for a development application.

(a) Legislative Context – Advertising and Notification

In regards to development application advertising Section 79A(1) of the *Environmental Planning and Assessment Act 1979* (the Act) requires that notice of a development application for consent to carry out advertised development is to be given in accordance with the Act, the *Environmental Planning and Assessment Regulation 2000* (the Regulations) a relevant environmental planning instrument or a relevant development control plan. Notice essentially means an advertisement in a local newspaper, and the Act identifies some categories of development that must be advertised. These are generally major development types and include:

- State significant development (development identified by the NSW Government as being either of State or regional significance);

- Designated development (development where an Environmental Impact Statement is required for example mining, chemical storage, agricultural produce industries);
- Most aquaculture development;
- Certain integrated development (development when the approval of a public authority is required)
- Certain threatened species development (that is likely to significantly affect threatened species, populations or ecological communities).

For these categories the Regulations also specify various requirements relating to site notices and written notification to adjoining owners.

Section 79A(2) of the Act then goes on to state that a development application for a specified development (other than the major development types identified above) must be notified or advertised in accordance with the provisions of a development control plan if the development control plan provides for the notification or advertising of the application. Therefore the Act provides councils with the discretion to identify local development types that require advertising or notification. As with development identified as 'advertised development' under the Act, the regulations then specify the parameters of the notification including contents of newspaper and written notices.

(b) Current Situation

An extract of the current advertising and notification requirements is provided in Attachment 1.

Advertised development

Currently the Shire's Development Control Plan 2012 identifies a category of development as 'Notifiable Development' and specifies that these types of development are advertised in a local newspaper, and a notification sign is erected on the property. To meet costs, applicants must pay an additional advertising fee at time of lodgement. There are 28 development types contained in this list including entertainment facilities, multi dwelling housing, residential flat buildings and tourist and visitor accommodation.

Written notification of development

The Development Control Plan 2012 specifies that landowners that adjoin and are directly opposite any development proposals will be provided with written notification, except for where there will be no impacts or the site does not adjoin a residential property. The plan also permits nil notification in cases where all adjoining and adjacent landowners have noted on the plans that they have no objection to the application. In addition, notification is generally not undertaken for boundary adjustments where no additional lots are created.

For low impact telecommunications facilities, the plan summarises consultation and notification requirements for proponents under the Australian Communications Industry Forum (ACIF) Code (now known as the Communications Alliance Ltd Industry Code - Mobile Phone Base Station Deployment) which has legal effect under the Telecommunications Act 1997.

(c) Proposed Changes to Advertising and Notification

Changes are proposed to simplify advertising and notification procedures. For advertising, it is proposed that this is limited to applications where a newspaper notice is required under legislation (refer item 1(a) - legislative context). This change is considered to have minimal impact given that Council's online application tracking

system enables the community to search for development applications in their area at any time. In addition, Council's community notices page provides weekly updates on received development applications. It is important to note that written notification to adjoining and adjacent land owners will still be undertaken for development types that are currently advertised, for example apartment buildings or shop top housing.

The views of neighbouring landowners are important in the planning process and it is proposed to retain written notification of proposals to owners of adjoining and adjacent properties for the majority of development types. Neighbour notification is however proposed to be removed for certain low impact developments where the proposal complies with the relevant development standards and controls. These development types include rural sheds (ancillary to residential use), new rural fencing, tennis courts (ancillary to residential use), strata subdivisions and where development will have no impacts to adjoining properties. Where these development types do not meet standards and controls, they will continue to be notified.

Current policy prescribing no notification for boundary adjustments where no new lots are created and where a site does not adjoin a residential property shall be retained. Where a development application is not notified by Council in accordance with the above provisions, adjoining and adjacent property owners will be sent a courtesy letter advising that an application has been received that is in accordance with the requirements of the development control plan. The letter will state Council will not be formally notifying or inviting submissions for this type of application which will be determined within the requirements of the *Environmental Planning and Assessment Act, 1979* no sooner than 14 days from the date of the letter.

The changes will facilitate faster approvals across the Shire for routine, low impact developments that meet all of Council's development controls. Whilst it represents a policy change for Council, it is consistent with the approach taken for complying development and will encourage development that meets Council's standards.

Given difficulties in verifying the authenticity of signatures it is proposed to not carry over provisions relating to nil notification in cases where adjoining and adjacent landowners have noted on the plans that they have no objection to an application.

For low impact telecommunications facilities, given specific requirements are identified under the provisions of the Telecommunications Act and Industry code, it is proposed to not reproduce such requirements within the plan.

(d) Other changes

Information required with a development application such as studies and reports have been removed and will be included in a revised Development Application Lodgement Guide. Information on the pre-lodgement process is also proposed to be provided in a guidance document rather than the development control plan. A revised glossary has been included and a number of other minor changes are also proposed to minimise duplication, remove unnecessary references to other plans and legislation, and reorganise the information into a simplified and more user-friendly format. A copy of the proposed draft Introduction section is provided in Attachment 2.

(e) Growth Centres

Given the above changes are proposed to update Council policy with respect to the advertising and notification of development applications, it is proposed that the relevant sections of the Growth Centre Development Control Plans (North Kellyville and Box Hill) also be amended to reflect the new provisions as specified above. This will ensure a

consistent approach across the Shire and avoid confusion for applicants and the community.

2. REVIEW OF RURAL DEVELOPMENT CONTROLS

The Rural Development Control Plan contains controls relating to subdivision and development in the rural area including controls relating to extractive industries. The aim of the plan is to ensure development not impact on the rural character, amenity and environmental features of the land.

(a) Structure and Format

Generally, development is proposed to be guided by a 'Statements of Outcomes' and 'Development Controls'. Statement of Outcomes set out the key intent of each control. Development controls are then listed in a tabular format and numeric controls are utilised where possible. Redundant or out of date controls have been deleted and the use of excess commentary or background details around controls has been minimised.

In some specific circumstances, known potential variations to a development control are identified to allow flexibility in the application of the control where the variation sought would meet the intended outcome. This would be in cases such as acknowledging an existing building location when applying setback controls for a dwelling extension. It would still be open to consider other variations to the controls as part of a merit assessment, as per the existing practice, which would be evaluated against the 'Statement of Outcomes' for that control.

(b) Key Policy Changes

Some controls have been removed or significantly reduced, and additional flexibility has also been introduced for some land uses such as sheds and rural cluster subdivision. An outline of the key changes to controls in the plan is set out below:

Rural Sheds

Controls for rural sheds have been simplified to better respond to provisions under complying development and the Local Environmental Plan (LEP). This includes the removal of a height limit in the Development Control Plan (given height is controlled by the LEP) and an increase in the maximum size of a shed in the RU6 Transition zone from 200m² to 300m² as this is more consistent with the size of sheds generally sought by customers and subsequently approved by Council. Requirements around the degree of roof pitch, design features and colours and materials for sheds have been removed given the standard nature of shed manufacturing. Remaining controls relating to setbacks and landscaping will ensure visual impacts are minimised.

Rural Cluster Subdivision

Controls relating to rural cluster subdivision have been reviewed and simplified. To improve flexibility in development outcomes the minimum number of cluster lots has been reduced from four (4) to three (3) lots. With regard to environmental outcomes, the requirement for the submission of a Community Management Statement at the development application stage has been removed and clearer controls around requirements for Vegetation Management Plans will provide clarity for applicants seeking to carry out this type of development.

Rural Workers Dwellings

Rural workers dwellings are currently permissible with consent in all the rural zones across the Shire and controls govern the maximum size of such dwellings and require significant justification as to why one is necessary to support agricultural activity

occurring on the site. The intent for rural workers dwellings is to allow a small-scale accommodation option for rural workers in isolated areas to prevent them from having to travel long distances to access their employment, and to ensure that the worker is within close proximity to the agricultural activity. The NSW Department of Primary Industries provide strategic policy guidance on rural workers dwellings and advise they are appropriate in isolated locations more than 200km from major population centres. In general, rural workers dwellings are warranted when the scale and nature of the farm necessitates on site workers or managers to meet animal welfare requirements, such as large scale intensive livestock enterprises.

Existing rural workers dwellings in the Shire have been approved subject to conditions relating to occupation only by a person engaged in agricultural activity on that land. In recent times however, there has been limited interest in rural workers dwellings in this Shire. This is generally because of the proximity of the Shire's rural lands to the urban area and requirements relating to the financial evidence and locational justification.

The introduction of secondary dwellings in the rural areas as part of Local Environmental Plan 2012 provides opportunities for all landowners in rural areas to construct an additional dwelling without the required justification relating to rural workers dwellings. It is therefore proposed that the controls relating to rural workers dwellings be deleted from the Development Control Plan and a planning proposal to prohibit rural workers dwellings under the Local Environmental Plan be progressed. Should an existing rural workers dwelling cease to be occupied for its approved purpose a landowner may seek approval for its use as a secondary dwelling. Such an approach has been implemented in other Council areas, most recent being Lismore City Council.

Private open space for secondary dwellings

The requirement for a private open space area for secondary dwellings has been removed given sufficient area is available for such in rural locations.

Site coverage controls for plant agriculture

A provision has been added to acknowledge commonly approved variations to site coverage controls for intensive plant agriculture development involving light weight structures such as greenhouses. The variation allows flexibility in the assessment and simplifies the application process for customers. Controls such as landscape screening are maintained to ensure visual impacts are appropriately managed.

On-site sewerage management controls

It is proposed to remove controls relating to on-site sewerage management and move this to a local approvals policy to reduce upfront application requirements and approval time frames for customers.

Extractive Industries

The controls have been reduced to simplify requirements and remove duplication, unnecessary references and images.

A copy of the proposed draft Rural Section of the Development Control Plan controls is provided in Attachment 3.

CONCLUSION

The proposed Development Control Plan changes simplify controls for development thereby reducing red tape and providing for more timely preparation and processing of development applications. Changes to advertising will reduce costs for applicants whilst enabling Council to meet its statutory obligations. The proposed changes to the Rural

and Introduction sections provide a more user friendly document to assist residents in designing and gaining approval for rural/residential developments.

Amended rural controls provide additional flexibility and improved clarity around development requirements including sheds and rural cluster subdivision. The generally tabulated and numeric format of controls enable future translation to an online enquiry system that will enable customers to easily search for development rules for their property and development type.

A policy change to remove rural workers dwellings as a permissible land use and delete all relevant development controls ensures the appropriate strategic management of the Shire's rural lands.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

The Hills Future - Community Strategic Plan

The review of Council's DCP will improve development controls and the overall development approval process, ensuring a robust framework that is in line with the community's needs and expectations.

RECOMMENDATION

1. Proposed amendments to Part A - Introduction and Part B Section 1 - Rural of Development Control Plan 2012 be publicly exhibited.
2. North Kellyville and Box Hill Development Control Plans be amended to include the same advertising and notification procedures as proposed for the rest of the Shire and be exhibited concurrently with The Hills Development Control Plan 2012.
3. A planning proposal to amend Council's Local Environmental Plan to prohibit rural workers dwellings in all rural zones within the Shire be prepared and forwarded to the Department of Planning Environment for a Gateway Determination.

ATTACHMENTS

1. Extract of current advertising and notification requirements under The Hills Development Control Plan 2012 (4 Pages).
2. Draft Introduction Section (18 Pages).
3. Draft Rural Section (30 Pages).