

CHAPTER 6 PUBLIC NOTIFICATION OF DEVELOPMENT APPLICATIONS

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1 INTRODUCTION

1.1 Application

This chapter is used to determine the requirements for public notification and exhibition of development applications received by Council. This chapter aims to ensure that a consistent approach is adopted to the public notification of development applications, thereby providing a greater level of certainty to applicants and the general community.

1.2 Objectives

The objectives of this chapter are:

- a) To outline the type of development applications which Council will publicly advertise or provide notification to specific persons.
- b) To define the period during which a person may inspect a development application which is on exhibition or subject to adjoining owner notification and the period during which submissions concerning that application can be made.
- c) To detail how submissions received will be considered.

1.3 Definitions

The Kyogle Local Environmental Plan 2012 (Kyogle LEP 2012) contains definitions for the various forms of development within the Council area. This chapter uses the adopted definitions.

2 Development applications which require notification

Table C6.1 in Appendix C6 identifies the public notification and exhibition requirements for various development types as defined under the Kyogle LEP 2012. Depending upon the location, nature and scale of any proposed development, Council reserves the right to impose additional notification and exhibition requirements in order to ensure an appropriate level of consultation is afforded to the public.

For development types not included in Table C6.1 in Appendix C6, Council will determine the appropriate level of public notification and public exhibition based upon an individual assessment of the proposal and having regard to the nature, scale and location of the development.

The *Environmental Planning and Assessment Act 1979* also identifies other development types that require public notification. These are; 'designated development' and 'advertised development'. The *Environmental Planning and Assessment Regulation 2000* specifies the requirements for notification of this development.

Where application is made for modification of a development consent under section 96 of the *Environmental Planning and Assessment Act 1979* the notification requirements shall generally be those as applied to the original application however, Council will have discretion to increase or

reduce the notification requirements depending on the nature (and anticipated impacts) of the proposed modification.

3 Fees associated with the notification process

Where advertising or notification of a development application is required, such fee as is adopted by Council and included in Council's Schedule of Fees and Charges is required to be paid at the time of lodgement of the development application. Advertisement and notification fees are in addition to the development application assessment fee. Fees specified by other legislation or authorities for Integrated, Designated or State Significant Development will be applied as prescribed.

4 Notification process and requirements

4.1 Persons to be notified

Notification of the following persons is required to be undertaken (except where excluded by this chapter):

1. Persons who own land adjoining the land to which the application relates. Adjoining land includes land which abuts the subject land or is separated from it only by a pathway, road, driveway or similar thoroughfare;
2. To such other persons who own land not directly adjoining land to which the application relates, where Council is of the opinion that such notification is appropriate having regard to the scale and nature of the development proposed; and
3. Where an application is received for the erection or placement of a transportable dwelling, or the relocation of an existing dwelling house, on any land, Council shall notify all owners of:
 - Properties within 100m on the same street or streets for corner lots; and
 - Properties adjoining the rear of the site.

A notice to an association for a community, precinct or neighbourhood parcel within the meaning of the *Community Land Development Act 1989*, or to a body corporate for a parcel within the meaning of the *Strata Schemes (Freehold Development) Act 1973*, or the *Strata Schemes (Leasehold Development) Act 1986*, is taken to be a notice to the owner of each lot within the parcel. If a parcel of land is owned by more than one person, notice to one owner is taken to satisfy the requirements of this Plan.

At the discretion of Council other parties may be notified if the nature of the development application is such that there are potential impacts or implications for a particular group, or the nature of the development involves a subject that relates to the dealings of a particular group.

4.2 Notice on the land

Notification is to be placed on the land that is the subject of the application as required by the *Environmental Planning and Assessment Act 1979*. The notice exhibited on the land must be in the form described in Clause 79 of the *Environmental Planning and Assessment Regulation 2000*.

4.3 Advertisement in newspaper

Where advertisement is required to be placed in a newspaper by this Chapter only, Council will arrange preparation and submission of the required newspaper notice. A newspaper for the purposes of this Chapter refers to a local newspaper circulating within the Kyogle local government area.

5 Timing of notification

Notification and advertising will be carried out at the following stages of the development application process:

- **Where Council requires the provision of additional information and/or clarification and/or changes to a development proposal** (as determined through an initial assessment of an application); public notification will be carried out following receipt of the applicant's response to Council's request. This is to ensure that the public has all required information and are able to consider the current version of the development proposal as a basis for making their submission.

OR

- **Where Council's initial assessment determines that no information request is required or where any additional information which may be required would not materially alter or change the proposal;** public notification and advertising will be carried out at that point.

6 Period for making submissions

1. For applications required to be advertised in a local newspaper, the period for viewing application documentation and providing a submission to Council is 21 days from the day after the date of advertisement except where otherwise prescribed by the *Environmental Planning and Assessment Act 1979*. Where notification to adjoining and/or nearby property owners occurs in conjunction with a newspaper advertisement, the period for adjoining/nearby owners to forward a submission is also 21 days from the date of notification.
2. For development applications not requiring advertisement, but requiring notification to adjoining and/or nearby owners, the period for viewing documentation and providing a submission is 14 days from the day after the date of notification.

3. Upon written request, Council may grant an extension of time for submissions. In considering whether to grant an extension, Council will have regard to the circumstances of the case, the reasons for the requested extension and the implication of delays in processing the application.

7 Validity of submissions

To be considered valid, submissions must be:

- Received during the submission period.
- Made in writing.
- Signed by the author and include their name and address.
- Accompanied by a political donations declaration, as required by section 147 of the *Environmental Planning and Assessment Act 1979*.

Only valid submissions will be considered however, Council may, at its discretion, consider submissions received after the end of the notification period.

8 How submissions will be considered

Clause 79C(1)(d) of the *Environmental Planning and Assessment Act 1979* requires that Council, in determining a development application, must take into consideration submissions made in respect of a development application.

The greatest weight will be attributed to submissions that make their objection or support for a development application on valid planning grounds. A valid planning ground is taken to be a standard or outcome expressed in an environmental planning instrument, development control plan or other guideline or policy document. Therefore, submissions should identify applicable or relevant development standards and outcomes and state how in the submitter's opinion a development application is or is not consistent with these. Grounds for objection or support that are based on personal or subjective opinion or stance, such as moral grounds, personal taste or preference will not be given such weight.

All valid submissions will become public documents at the time an application is being presented to Council or after the application has been determined.

9 Acknowledgement of receipt of submissions and notification of determination of development application

Upon receipt of a valid submission during the submission period, Council will write to the submitter acknowledging receipt of their submission.

Where an application is to be presented to Council for determination all those persons who made a submission will be formally advised of the date of the Council meeting when the application will be considered.

As soon as possible after determination of an application is made all persons who lodged a submission in respect of that application will be notified of the determination in writing.

10 Variations or amendments prior to determination

Council may decide to dispense with advertising and notification for variations and amendments received prior to determination in the following circumstances:

- Where a Development Application has been publicly advertised and/or notified in accordance with this Chapter, and the application is amended or plans substituted which address any concerns raised in submissions received; or
- Where a Development Application has been publicly advertised and/or notified in accordance with this Chapter and the application is amended or plans substituted in response to Council's assessment and Council is of the opinion that the amended application and/or substituted plans will have no greater environmental impact and differ only in minor respects from the original application/plans.

APPENDIX C6

Table C6.1 Notification Matrix

Key	Notification of Adjoining or Nearby Property Owners	Notice in Local Newspaper
✓ Required		
✗ Not required		
○ May be required depending upon nature and/or scale of proposal		
SUBDIVISION		
Residential subdivision creating 3 or more additional lots	✓	○
Commercial or industrial subdivision creating 5 or more additional lots	✓	○
Rural subdivision creating 3 or more additional lots or dwelling entitlements	✓	✗
Rural residential subdivision creating 3 or more additional lots	✓	○
RESIDENTIAL DEVELOPMENT		
Dwelling in Zones RU1 and RU2	○	✗
Dwelling in Zones R1, R3, R5, RU4, RU5	○	✗
Dual occupancies, Semi-detached dwellings, Attached dwellings	✓	✗
Multi dwelling housing, Residential flat buildings	✓	○
Seniors housing	✓	○
Secondary dwellings	✓	✗
INDUSTRIAL DEVELOPMENT		
Industrial development (where in Zones IN1 or IN2)	○	✗
Industrial development (where not in Zones IN1 or IN2)	✓	✓
RURAL DEVELOPMENT		
Extractive industries	✓	✓
Farm buildings	○	✗
Rural Industries	✓	○
Intensive livestock agriculture	✓	✓
COMMERCIAL DEVELOPMENT		
Office or Business premises (where in Zones B2, B4 or RU5)	○	✗
Office or Business premises (where not in Zones B2, B4 or RU5)	✓	○

Key ✓ Required ✗ Not required ○ May be required depending upon nature and/or scale of proposal	Notification of Adjoining or Nearby Property Owners	Notice in Local Newspaper
RU5)		
Restricted premises	✓	✓
Retail premises (where in Zones B2, B4 or RU5)	○	✗
Retail premises (where not in Zones B2, B4 or RU5)	✓	✗
Warehouse or distribution centre	✓	✓
Freight transport facility	✓	✓
OTHER DEVELOPMENT		
Tourist and visitor accommodation	✓	○
Eco-tourist facilities	✓	○
Camping grounds	✓	○
Caravan parks	✓	○
Rural land sharing communities	✓	✓
Bed and breakfast accommodation or Farm stay accommodation	✓	✗
Change of use of premises	✓	○
Home Industries and Home Businesses	✓	✗
Animal boarding and training establishment	✓	✓
Group home	✓	✗
Health services facility	✓	✓
Demolition of or alterations or additions to a Heritage Item	✓	✓
Place of public worship	✓	✓
Waste or resource management facility	✓	✓
Internal alterations to any approved building	✗	✗