

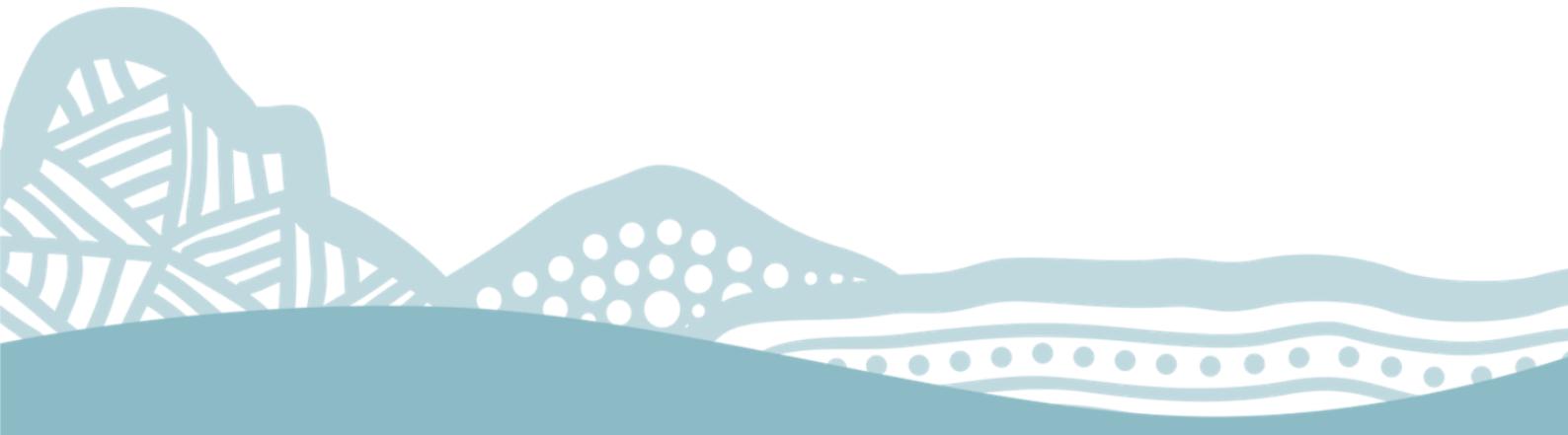


# Kyogle Development Control Plan 2014



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INITIAL DRAFT	29-11-2013	Draft for public exhibition	091213/12
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# Kyogle Development Control Plan 2014

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# 1 INTRODUCTION

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## 1.1 Name of Plan

This Plan may be cited as the Kyogle Development Control Plan 2014.

## 1.2 Application

The Kyogle Development Control Plan 2014 (the DCP) has been prepared in accordance with Section 3.42 of the *Environmental Planning and Assessment Act 1979* and Part 3 of *Environmental Planning and Assessment Regulation 2000*.

The DCP makes provisions to guide the design of development proposals, the preparation of applications for development consent and the assessment of development applications in the Kyogle Council Local Government Area. Council is required under Section 4.15 of the *Environmental Planning and Assessment Act 1979* to take into consideration the relevant provisions of the DCP in determining development applications on land to which the DCP applies.

Where a type of development or development in a particular Zone is not listed in this DCP, applications will be assessed on a merit basis.

## 1.3 Commencement

This Plan came into effect on 1 June 2014.

## 1.4 Relationship to Other Plans

The DCP is to be read in conjunction with the Kyogle Local Environmental Plan 2012 (the LEP). The DCP seeks to give effect to the aims and objectives of the LEP by providing guidelines for development that is permissible with consent under the LEP. Where inconsistent with provisions of the LEP or State Environmental Planning Policies, the LEP or SEPP shall prevail.

This plan repeals the following Development Control Plans:

- DCP No. 1- Subdivision
- DCP No. 2- Development in Rural Areas
- DCP No. 3- Industrial Development
- DCP No. 4- Bed and breakfast Establishments and Farmstays
- DCP No. 5- Kyogle Commercial Area Off-Street Car Parking
- DCP No. 6- Outdoor Advertising
- DCP No. 7- Ecotourism
- DCP No. 9- Public Notification of Development Applications
- DCP No. 10- Management of Contaminated Lands
- DCP No. 11- Exempt Development
- DCP No. 12- Complying Development

## 1.5 Land to which the Plan applies

This plan applies to land in the Kyogle Council Local Government Area to which the LEP applies.

## 1.6 Purpose of the Plan

Consistent with Section 3.42 of the *Environmental Planning and Assessment Act 1979* the purpose of this DCP is to make detailed provisions to guide the design of development proposals, the preparation of applications for development consent and the assessment of development applications for all land within the Kyogle Local Government Area in order to;

- (a) give effect to the aims of the Kyogle LEP 2012;
- (b) facilitate development that is permissible under the Kyogle LEP 2012, and;
- (c) achieve the objectives of land zones under the Kyogle LEP 2012.

In accordance with Section 3.43 of the Act this DCP has also been prepared to provide for public advertising and notification of development applications for specified development.

## 1.7 Structure and Use of the Plan

### Chapters

This Development Control Plan is comprised of distinct chapters that each deal with a type of development or development within a particular Zone or Zones.

### Aims and Objectives

Each chapter has specific Aims and/or Objectives that it seeks to achieve. The Aims and Objectives are supported by more detailed Development Guidelines which are expressed through Performance Criteria and Acceptable Solutions.

### Performance Criteria and Acceptable Solutions

The Performance Criteria are in the left hand column of the Development Guidelines tables. They provide a statement of an intended development outcome that will achieve the Objectives of the chapter.

The Acceptable Solutions are in the right hand column of the Development Guidelines tables. **The Acceptable Solutions generally represent a preferred way of complying with the Performance Criteria however, there are other ways that an application can be shown to meet a Performance Criteria. A proposal that seeks to pursue an alternative solution to a stated Acceptable Solution must provide sufficient information to demonstrate how the corresponding Performance Criterion has been met.** It is the responsibility of the applicant to demonstrate how alternative solutions comply with, or achieve the intent of, the Chapter's Performance Criteria. This may require the submission of additional reports or evidence prepared by suitably qualified persons where applicable. For example, where a site is flood

prone, a report prepared by a hydraulic engineer may be required to show that the development is not subject to an unacceptable risk of flooding.

Similarly, in some cases meeting an Acceptable Solution requires compliance with Australian Standards or Council's Policies or Strategies or the submission of evidence, reports or plans prepared by suitably qualified persons. For example; an on-site waste water management plan prepared by a qualified soil scientist.

A proposal that meets with all Acceptable Solutions will generally be approved, except where particular circumstances of the site or development mean the Acceptable Solutions will not achieve a desirable outcome. A proposal that does not demonstrate achievement of the Performance Criteria or its intent, except in insignificant details, will be refused where it cannot be conditioned to mitigate impacts or it cannot be demonstrated that the development achieves the objectives of the Chapter.

#### Departures, Variations and Alternative Solutions

This DCP provides guidelines for development that are expressed as preferred outcomes rather than rigid development standards. As such, there are not expected to be many situations where the Development Guidelines should need to be varied. However, where a variation is requested Council may consider varying the Development Guidelines where it can be adequately demonstrated that the Aims and/or Objectives of the relevant Chapter can be wholly achieved by an alternative solution and the proposal is consistent with all LEP aims and Zone Objectives. Applications will generally need to provide a detailed justification for the request and evidence that an equivalent or better outcome will result from the variation in terms of environmental, social, cultural and economic outcomes. This may require the submission of reports or evidence prepared by suitably qualified persons. Where the development standard to be varied relates to a standard in the LEP, the application must address Clause 4.6 Exceptions to development standards of the LEP.

#### Advisory notes

Advisory notes (shown in italics) are for information or clarification only and are not a requirement of the plan.

## **1.8 Definitions**

The definitions of terms used in this Plan are the same as definitions provided in the Dictionary of the Kyogle LEP 2012. Additional terms may be defined within individual chapters.

#### NOTE:

Buffers – the numerical buffer distances identified in the Appendices generally refer to the distance between the proposed development and the specified activity/building on an adjoining property not party to the proposed development.

Surrounding Area referred to in Land Use Conflict generally refers to the area outside the development site.