



**Byron Shire Council
Development Control Plan No. 17**

Public Exhibition and Notification of Development Applications

**Adopted 30 November 1999
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Table of Amendments

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1. Citation and Parameters;

- (a) This plan may be cited as Development Control Plan No. 17 – Public Exhibition and Notification of Development Applications.
- (b) This plan is prepared pursuant to sub Sections 72 (1) (b) & (c) of the Environmental Planning and Assessment Act, 1979. This plan does not include public exhibition provisions relating to;
 - 1) Designated Development
 - 2) State Significant Development
 - 3) Nominated Integrated Development
 - 4) Applications to modify consents to correct minor errors, calculations or misdescription (Section 96(1))
 - 5) Threatened species development (development applications accompanied by a Species Impact Statement)
 - 6) Class 1 and 2 Aquaculture Development as defined by State Environmental Policy No. 62 - Aquaculture Development

These provisions are included in the Act and regulations.

- (c) Definitions are those contained in the Environmental Planning and Assessment Act, 1979 and Regulations, Local Government Act, 1993 and Byron Local Environmental Plan 1988.
- (d) This plan shall prevail over any other Development Control Plan with regard to advertising and public exhibition and notification provisions.

2. Objectives;

The objectives of this plan are;

- (a) To provide for public participation in the development control process.
- (b) To specify which development applications will be notified and which will be advertised.
- (c) To specify whether the whole public, only sections of the public or specified persons will be notified.
- (d) To specify the procedures for advertising and notification of development applications.
- (e) To specify which applications to modify consents (Section 96) will be placed on public exhibition or notified.
- (f) To specify where an application is made to review a determination (Section 82A), and amendments are made to the development described in the original application, when that application will be placed on public exhibition or notified.

3. Different Forms of Public Exhibition and Notification;

Public exhibition and notification of development applications must consist of one or more of the following components;

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Newspaper advertisement:

A newspaper advertisement must consist of a public notice placed in a local newspaper on the day before the public exhibition period. That notice must be repeated one week later. The public notice must contain the following;

- a) a description of the land (including the address) on which the development is proposed to be carried out,
- b) the name of the applicant and the name of the consent authority,
- c) a description of the proposed development,
- d) a statement that the application and the documents accompanying that application may be inspected at Council's Information and Enquiry Counter, Station Street Mullumbimby during ordinary office hours (Council may specify additional locations for inspection of the application),
- e) the dates of the exhibition period,
- f) a statement that any person during the exhibition period may make a written submission to the General Manager in relation to the development application,
- g) a statement that where the submission is by way of objection the submission must set out the grounds of the objection.
- h) a statement as to Council's policy for supplying copies of written submissions to other people
- i) In the case of an application to modify consent, an outline of the modification sought.

Letter to adjoining landowners:

A letter to an adjoining landowner is to be posted no later than the day before the exhibition period and must contain the following information;

- a) a description of the land (including the address) on which the development is proposed to be carried out,
- b) the name of the applicant and the name of the consent authority,
- c) a description of the proposed development,
- d) a statement that the application and the documents accompanying that application may be inspected at Council's Information and Enquiry Counter, Station Street Mullumbimby during ordinary office hours (Council may specify additional locations for inspection of the application),
- e) the dates of the exhibition period,
- f) a statement that the person may during the exhibition period may make a written submission to the General Manager in relation to the development application,
- g) a statement that where the submission is by way of objection the submission must set out the grounds of the objection.
- h) a statement as to Council's policy for supplying copies of written submissions to other people.
- i) In the case of an application to modify consent, an outline of the modification sought.

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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.

When notifying adjoining landowners;

- a) if the land is a lot within the meaning of the Strata Schemes (Freehold Development) Act 1973, a written notice to the owners corporation is taken to be a written notice to the owner or occupier of each lot within the strata scheme, and
- b) if the land is a lot within the meaning of the Strata Schemes (Leasehold Development) Act 1986, a written notice to the lessor under the leasehold strata scheme concerned and to the owners corporation is taken to be a written notice to the owner or occupier of each lot within the strata scheme, and
- c) if the land is owned or occupied by more than one person, a written notice to one owner or one occupier is taken to be a written notice to all the owners and occupiers of that land.

A sign on the land:

A sign on the land is to be erected no later than the day before the exhibition period and;

- a) must display a copy of the notice to be placed in the local newspaper and, if practical, a plan showing the boundaries of the development,
- b) must be erected on the land to which the development application relates,
- c) must, if practical be capable of being read from a public road, public place or public reserve (Council may erect a second sign near the land where the sign can not be read from a public road, public place or public reserve),
- d) must be displayed on a board with minimum dimensions of A3 standard paper for level 2 developments or A2 standard paper for levels 3 and 4.

Exhibition Period;

The exhibition period is the period in days during which a copy of the Development Application and supporting information is available to be viewed by any member of the public at Council's Information and Enquiry Counter, Station Street Mullumbimby. The exhibition period may be fourteen (14), twenty-one (21) or thirty (30) days. The exhibition period is to be extended by, fourteen (14) if the period between Christmas and New Years Day is included in the exhibition period or by seven days (7) if the Easter weekend is included in the exhibition period

4. Levels of Public Exhibition and notification.

The types of development listed below are to be subject to the following levels of notification prior to determination. Should there be any conflict between the following provisions or the development is described in more than one level the higher level must apply. A reference to a type of development must also be read as a reference to alterations and extensions to that type of development (i.e. Hotel includes extensions to a hotel).

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Level 0

No public exhibition or notification.

Development applications involving the following types of development will not be advertised or notified.

Development Types

- ◆ buildings ancillary to a dwelling-house (garages, pools, sheds, etc.);
- ◆ single storey dwelling-house that complies with the setback provisions of Development Control Plan 2002;
- ◆ subdivisions involving boundary adjustments that do not provide an additional dwelling entitlement.;
- ◆ strata subdivisions;
- ◆ internal alterations to a building;
- ◆ advertising signs and structures complying with Part L of Development Control Plan 2002;
- ◆ utility installations;
- ◆ tree removals in urban zones not within two metres of another property in separate ownership;
- ◆ forestry involving establishment of native plantations;
- ◆ demolition of a structure that is not a heritage item;
- ◆ fences (that comply with Council Policy);
- ◆ buildings ancillary to agriculture not within 20 metres of the boundary;
- ◆ Industrial buildings within Zone No. 4(a)(Industrial Zone);
- ◆ change of use of shops (other than food shops) within Zone No. 3(a) - (Business Zone)
- ◆ change of use of commercial premises within Zone No. 3(a) - (Business Zone)
- ◆ change of use of light industries in Zone No.4.(a) - (Industrial Zone)
- ◆ environmental facilities;
- ◆ development required to be carried out in an emergency (i.e. relocation of a dwelling to prevent damage from coastal erosion).

Level 1

(notification only as defined by Section 72 (1) (c) of the Environmental Planning and Assessment Act 1979)

Development applications involving the following types of development will be notified by sending a letter to adjoining landowners and providing for an exhibition period of fourteen (14) days. Only those adjoining landowners who may detrimentally affected by the proposed development will be notified (e.g. a garage with a reduced setback will only be notified to the immediately adjoining landowner). Applicants for this level may seek letters of submission directly from the adjoining landowners and submit these to Council. These submissions must include a suitable reference to the subject plans (i.e. plan number and date).

Development Types

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- ◆ dwelling-houses greater than one storey;
- ◆ dwelling-houses that do not comply with the setback requirements of Development Control Plan 2002;
- ◆ tree removals in Urban zones within two metres of another property in separate ownership;
- ◆ buildings ancillary to agriculture within 20 metres of the boundary.
- ◆ fences (that do not comply with Council Policy);

Level 2

(This level is defined as other advertised development under the Act)

Development applications involving the following types of development will be notified and advertised via;

- a letter to adjoining landowners;
- a newspaper advertisement;
- a fourteen (14) day exhibition period;
- erecting a sign on the land;

Development Types

- ◆ subdivisions involving the creation of between 1 and 19 lots;
- ◆ residential flat buildings, dual occupancy buildings, tourist facilities, multiple occupancies or the like involving the erection of between 2 and 19 units/dwellings;
- ◆ roadside stalls;
- ◆ home industries;
- ◆ tourist facilities, hostels and the like involving the change of use of an existing dwelling house;
- ◆ rural industries;
- ◆ erection of shops within Zone No. 3(a)(Business Zone);
- ◆ professional consulting rooms;
- ◆ agriculture;
- ◆ forestry involving harvesting of native forests or establishing non-native plantations;
- ◆ development on a public reserve or community land;
- ◆ advertising signs and structures that do not comply with Part L of Development Control Plan 2002;
- ◆ development specified in clause 22-Heritage Items of Byron Local Environmental Plan 1988;
- ◆ clearing of land within rural zones;
- ◆ liquid fuel depots other than within Zone No.4(a)(Industrial Zone);
- ◆ educational establishments;
- ◆ animal establishments;
- ◆ sawmills;
- ◆ hotels;

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- ◆ places of public worship;
- ◆ brothels;
- ◆ rural workers dwellings;
- ◆ restaurants and commercial premises other than in Zone No. 3(a)(Business Zone);
- ◆ erection of shops in residential zones;
- ◆ change of use of restaurants within Zone No. 3(a) - (Business Zone)
- ◆ change of use of food shops within Zone No. 3(a)(Business Zone)
- ◆ change of use of light industries not within Zone No.4.(a)(Industrial zone)
- ◆ any other development type not listed in any other level.;

Level 3

(This level is defined as other advertised development under the Act)

Development applications involving the following types of development will be notified and advertised via;

- a letter to adjoining landowners
- a newspaper advertisement
- a twenty one (21) day exhibition period
- erecting a sign on the land

Development Types

- ◆ subdivisions involving the creation of between 20 and 49 lots
- ◆ residential flat buildings, tourist facilities or the like involving the erection of between 20 and 49 units/dwellings.
- ◆ non-designated extractive industries
- ◆ clearing of land in Environmental Protection Zones.

Level 4

(This level is defined as other advertised development under the Act)

Development applications involving the following types of development will be notified and advertised via;

- a letter to adjoining landowners
- a newspaper advertisement
- a thirty (30) day exhibition period
- erecting a sign on the land

Development Types

- ◆ subdivisions involving the creation of 50 or more lots
- ◆ residential flat buildings, tourist facilities or the like involving the erection of 50 or more units/dwellings.

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- ♦ offensive or hazardous industries

5 Public Exhibition and Notification of Applications to Modify Development Consents (Section 96) and Review Determinations (S82A)

Applications to modify development consent pursuant to Section 96(1A) and 96(2) and applications to review a determination (Section 82A), where amendments are made to the development described in the original application, must be placed on public exhibition and notified in the same manner as described (ie Level 0 to Level 4) above, as for the original development application, except that;

1. the exhibition period must be fourteen (14) days,
2. a letter must be sent to the person/s who made submissions to the original development application and/or previous applications to modify the development consent. In the case of a petition, a letter will only be sent to the organiser of the petition or where this is not known, to the person who first signed the petition.

Where the original development application was advertised/placed on public exhibition/ notified prior to this Development Control Plan coming into force, the level of public exhibition or notification of the application to modify the consent must be determined in accordance with the levels set out in Clause 4 above.

Exceptions

Applications to modify development consent and applications to review a determination (Section 82A) will not be placed on public exhibition or notified where the modification or amendments to the development (in case of Section 82A) involves either:

- modification to conditions of consent where those conditions do not involve the design or location of a building (or key component) or hours of operation,(i.e. developer contributions, on-site effluent disposal); or
- modification considered by Council to be a minor change to the proposed development and of low environmental impact (i.e. altered carparking layout, changes to the entry of a shop). Further provided no objections have previously been received to the original development application or previous application to modify consent; or
- internal alterations to a building; or
- modification to a dwelling-house which does not involve a reduction in setback of the dwelling-house from the boundaries of the property; or modification to the first or higher floor level of the dwelling-house.

6 Increases in the level of public notification or exhibition.

Council may

- a) notify or publicly exhibit (Levels 1 to 4) a development application that would not have been otherwise notified or publicly exhibited (ie. Level 0),
- b) publicly exhibit (Levels 2 to 4) a development application that would not have been otherwise publicly exhibited (ie. Level 1), or
- c) publicly exhibit (Levels 2 to 4) a development application at a higher level,

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if:

- previous developments on the land have received a significant level of objection,
- the location of the development is unique in terms of unusual landform or vegetation, or
- the size or extent of the development is beyond that which would normally be expected for the category of development.

Council may increase the level of public exhibition at the time of first giving public notice or at any time prior to the conclusion of the exhibition period.