

Development Control Plan

Notification of Development Applications

Sutherland
Shire
Council



9.0/02
edition 4

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Table 1: Development to be publicly exhibited

1. Where does the Plan apply?

This plan applies to all land within Sutherland Shire to which the following plans apply:

- (a) Sutherland Shire Local Environmental Plan 2000,
- (b) Sutherland Shire Local Environmental Plan – Menai Town Centre 1992,
- (c) land at Sandy Point administered under the County of Cumberland Planning Scheme being Sandy Point Suspension Area, and
- (d) also applies as a development code under the provisions of Sydney Regional Environmental Plan No.17 - Kurnell Peninsula (1989) to all land at Kurnell.

This plan does not apply to Designated Development as defined under the Environmental Planning and Assessment Act, 1979 or the Environmental Planning and Assessment Regulation, or for development for the purposes of 'Exempt Development' or 'Complying Development', as outlined in Schedules 4 and 5 of the Sutherland Shire Local Environmental Plan 2000.

Note: Designated development will require public exhibition under the requirements of the Environmental Planning and Assessment Act.

This plan replaces the existing requirements for 'Public Notification' under the following development control plans:

Housing in the Residential 'B' Area
Shopping Centre and Part of Service Area
Part of Services Area
Menai Building Guidelines
Menai Business 'B'

2. What is the purpose of the Plan?

The purpose of this plan is to:

1. Enable consultation with the community so that council can be aware of all the relevant issues and community concerns when determining a development application.
2. Identify members of the community who will be notified of a development application being received by Council;
3. Identify development that will be publicly exhibited prior to Council assessment of a development application; **see Note*
4. Identify how the community and public authorities will be notified of the public exhibition;
5. Increase community awareness and participation in the development process.

**Note: A development application will not be publicly exhibited until all information required as part of the application is submitted. Incomplete applications will not be public exhibited.*

3. How will Development Applications be publicly exhibited?

This plan sets out the type of notification used to inform the community of various types of development. Certain Development Applications, as specified in this Plan, will be publicly exhibited by:

- Notification letter to land owners, occupiers of the land and various community organisations; or
- Display of notice on the land; or
- Public exhibition by the placing of a notice in a local newspaper; or
- A combination of these.

3.1 Notification

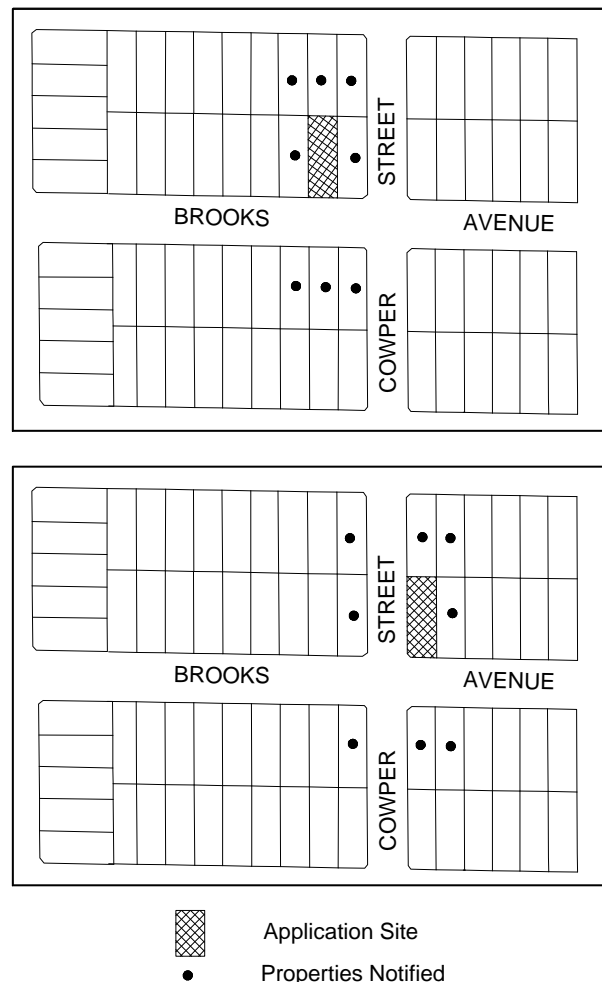
People who own or occupy land in the immediate vicinity of a development application site are provided with the opportunity to inform Council of their opinions relative to the proposed development.

A letter of notification of the public exhibition of a development application must be forwarded to the following:

- Persons who own, according to Council's rates and property register, and persons who occupy, the land immediately adjoining the land to which the development application applies;
- Relevant community organisations which, in Council's opinion, may need to provide input on the proposed development;
- Where adjoining land is a lot within the meaning of the Strata Schemes (Freehold Development) Act 1973, a letter of notification must be forwarded to the owners' corporation and to the occupier of each lot within the strata scheme, except occupiers of strata lots within an Industrial zone or shops and business premises in commercial areas;
- Where adjoining land is a lot within the meaning of the Strata Schemes (Leasehold Development) Act 1986, a letter of notification must be forwarded to the owners' corporation, to the lessee and to the lessor under the leasehold strata scheme;
- Any other persons or parties which, in Council's opinion, are likely to be affected by the proposed development.

The Council will give notice of an application to those persons who own adjoining or neighbouring land to an application site, as indicated in Figures 1 and 2. Council may also broaden the extent of notification following an inspection of the application site where, in the Council's opinion, the enjoyment of the land may be detrimentally affected in relation to, but not limited to:

- The views to and the view from the land;
- Overshadowing;
- Privacy;
- Noise;
- The visual quality of the building in relation to the streetscape;
- Existing amenity.



Figures 1 and 2– Notification of Adjoining Landowners (minimum standard)

Contents of a Letter of Notification

The letter of notification must provide the following information:

- A description (including the address) of the land to which the development application relates;
- The current zoning of that land and the types of development permissible in the zone;
- A description of the proposed development;
- An A4 copy of the site plan and elevations;
- An artist's impression and/or perspectives (including computer generated images) where the application is for a proposed multi-unit development;
- The name of the applicant;
- The name of the contact person through which enquiries can be directed;
- A statement specifying that the application may be inspected at the Administration Building of Council at any time during normal office hours for a period of 14 days, or for a period of 28 days if notification and public exhibition occurs during the month of December;
- If the development is also being publicly exhibited in a local newspaper, the letter must be posted before the date of commencement of the exhibition and must include a statement specifying that submissions will be received for the specified period of 14 days, or for a period of 28 days if notification and public exhibition occurs during the month of December, from the time of notification in a local newspaper;
- The letter must specify that any person may make a submission in writing to Council in relation to the development application and that submission may be made available for the community to view. Where the submission is by way of objection, the grounds of objection must be specified in the submission;
- The letter must include an explanation of the system of development application assessment.

Refer to Table 1 for Development requiring Public Notification

3.2 Display of a notice

A notice may need to be displayed on the land to which a development application relates, in order to inform the community of the proposed development, prior to Council determining the application. The notice must be erected by Council at the applicant's cost and must:

- Be displayed on a signpost or board constructed in a sturdy manner and comprising durable and weatherproof materials;
- Contain lettering which is clear, legible and able to be read from a public road, public place or public reserve;
- Be written under the heading in bold type "**DEVELOPMENT APPLICATION**";
- Contain the following information:
 - a) A statement that the application has been lodged;
 - b) The name of the applicant;
 - c) A brief description of the development application;
 - d) A statement outlining that the application may be inspected at the Administration Building of Council at any time during normal office hours for a period of 14 days, or for a period of 28 days if notification and public exhibition occurs during the month of December, from the time of notification in a local newspaper, being the same details as specified in the newspaper;
 - e) A statement specifying that any person may make a submission in writing to Council in relation to the development application. Where the submission is by way of objection, the grounds of objection must be specified in the submission.
 - f) A statement outlining that any submissions are available for viewing by the applicant or any other person with a relevant interest in the application.

Refer to Table 1 for Development requiring Display of a Notice

3.3 Publication of a notice

A notice may need to be published in a local newspaper, specifying the details of a development application in order to inform the community of the proposed development, prior to Council determining the application. The notice must provide the following information:

- A description (including the address) of the land to which the development application relates;
- A description of the proposed development;
- The name of the applicant and a statement to the effect that Council is the consent authority;
- The notice must be published in the Council notices section of a newspaper circulating in the locality;
- The notice must be published under the heading in bold type “**DEVELOPMENT APPLICATION**”;
- A statement outlining that the application may be inspected at the Administration Building of Council at any time during normal office hours for a period of 14 days, or for a period of 28 days if notification and public exhibition occurs during the month of December, including specific dates, from the time of notification in a local newspaper;
- A statement specifying that any person may make a submission in writing to Council in relation to the development application. Where the submission is by way of objection, the grounds of objection must be specified in the submission.
- A statement outlining that any submissions are available for viewing by the applicant or any other person with a relevant interest in the application.

Refer to Table 1 for Development requiring Publication of a Notice

3.4 Prior to determination

In circumstances where an owner of an adjoining property objects to a development proposal and requests in writing that they be informed of the progress of the application, a council officer will telephone the objector during normal business hours at the telephone number stated in the request, to inform that person of the intended determination.

3.5 Notification of the determination of a Development Application

When a submission has been received from a member of the community during the exhibition period of a development application, a letter acknowledging receipt of that submission must be forwarded immediately to the sender. Once Council determines, or in the situation where the Land and Environment Court determines, that application, a further letter must be forwarded to all persons who made submissions informing them of Council or the Court’s decision in relation to the development application.

In addition, where a number of submissions have been made, particularly in the form of an objection, Council may place a notification in a local newspaper (under the provisions of section 101 of the Environmental Planning and Assessment Act 1979 as amended) of the approval of the application.

Where a submission in the form of a petition is received, the petition should specify the details of the contact person to whom all correspondence must be addressed and a letter sent to that contact person is taken to be a letter to all signatories on that petition. When a petition is received, Council will use its best endeavours to notify the organiser of the petition.

Where an application is submitted to amend a development application during the course of assessment and prior to Council’s or the Court’s determination, the amendments will be publicly exhibited in the same manner as the original application, only where the amendments being sought are external, such as a relocation of the building, an adjustment to the position of windows, an alteration to the height or the like.

Where an application is submitted to modify a development application after Council approval has already been given, it will be at Council's discretion to determine whether an application may or may not need to be notified. Generally those modifications made in accordance with [section 96 \(1A\)](#) or section 96(2) of the Environmental Planning and Assessment Act 1979, will be re-notified in the same manner as the original notification. [If development consent for the application under section 96 \(1A\) was granted by the Court on appeal, Council must also notify the Court in accordance with the Environmental Planning and Assessment Regulation 2000.](#) Council must compare the likely impacts of the proposed modified development, including the environmental, social and economic impacts, with the impacts of the original development and determine whether significant impacts are likely to arise and who may be affected by the proposed changes.

Where an applicant requests a [review of a determination](#) of a development application, in accordance with section 82A of the Environmental Planning and Assessment Act 1979, notification will be in the same manner as the original notification.

4. What types of Development Application will be publicly exhibited?

All development applications will require some form of notification or public exhibition once they have been received by Council. The notification requirements for specific zones and also for specific types of development application in all zones are specified in Table 1. The types of notification have been classified as follows:

- 1. Notification letter to adjoining land owners, occupiers of the land and various community organisations;**
- 2. Display of notice on the land;**
- 3. Public exhibition by the placing of a notice in a local newspaper.**

5. What types of Development Application will not be publicly exhibited?

Council will not exhibit or notify an application for strata subdivision, or for development classified as Exempt or Complying Development in any Local Environmental Plan (LEP) applying to the land. Notification or exhibition is also not required for minor maintenance works involving replacement of existing materials with similar materials (generally structural works), or for ancillary development or advertising in the 3(a), 3(b), 4(a) and 9(a) zones, as indicated in Table 1. Ancillary development can be defined as "*a building, work or use which is used or carried out in conjunction with the primary legal use of a site*". (SSLEP 2000)

Exempt and complying development generally excludes the following types of development proposals from requiring public exhibition or notification, in accordance with specified standards or requirements:

- Advertising structures and signs
- Awnings, blinds
- Barbecues
- Bird aviaries
- Building alterations
- Park and street furniture
- Gazebos, cubby houses and the like
- Changes of use
- Decks and patios
- Driveways and pathways
- Home activities
- Retaining walls
- Single storey single dwelling houses, alterations and additions

NOTE:

These types of developments require development consent if they do not comply with the standards and conditions for Exempt or Complying development and will then require notification as specified in Table 1.

Where a development application is received by Council for a development which would otherwise be categorised as exempt development or complying development (ie: it complies with all standards and conditions for either exempt or complying development), the application does not require notification or public exhibition. Where a development application is submitted for a "Change of use" which does not meet the gross floor area requirements in Schedule 5 – Exempt Development (SSLEP 2000), notification or exhibition is not required.

ZONE	FORM OF NOTIFICATION
<p>Residential 2(e1), 2(e2) – (SSLEP 2000), Residential – (Sandy Point Suspension Area) and Residential 2(a) – (Kurnell REP No.17)</p> <p>The following development requiring development consent:</p> <ul style="list-style-type: none"> ✧ ancillary development, including home activities ✧ building alterations and additions ✧ demolition ✧ tennis courts (private) <p>All other development requiring development consent</p>	<p>1</p> <p>1, 2, 3</p>
<p>General Business 3(a) – (SSLEP 2000) and Business A and B – (Menai Town Centre LEP 1992)</p> <p>The following development requiring development consent:</p> <ul style="list-style-type: none"> ✧ buildings more than 2 storeys ✧ building more than 3,000 m² floor area ✧ development containing more than 40 on-site car parking spaces <p>All other development requiring development consent, except:</p> <ul style="list-style-type: none"> ✧ advertising ✧ ancillary development 	<p>1, 3</p> <p>1</p>
<p>Neighbourhood Business 3(b) – (SSLEP 2000) and Neighbourhood Business 3(d) – (Kurnell REP No.17)</p> <p>The following development requiring development consent:</p> <ul style="list-style-type: none"> ✧ buildings more than 2 storeys ✧ buildings more than 3,000 m² floor area ✧ development containing more than 40 on-site car parking spaces ✧ development adjoining or adjacent to any dwelling or residential zone <p>All other development requiring development consent, except:</p> <ul style="list-style-type: none"> ✧ advertising ✧ ancillary development 	<p>1, 3</p> <p>1</p>

ZONE	FORM OF NOTIFICATION
<p>Industrial 4(a) – (SSLEP 2000), Services Area – (Menai Town Centre LEP 1992), and Industrial 4(a), 4(b), 4(c1), 4(c2) – (Kurnell REP No.17), Environmental Protection (Special Development) 7(b) – (Kurnell REP No.17)</p> <p>All development adjoining or adjacent to any residential zone requiring development consent except: <ul style="list-style-type: none"> ✧ advertising All other development requiring development consent except: <ul style="list-style-type: none"> ✧ advertising ✧ ancillary development </p>	<p>1, 2, 3</p> <p>1</p>
<p>Special Uses 5(a), 5(b), 5(c), 5(d), 5(e), 5(f), 5(g) – (SSLEP 2000), Recreation and Community, Road and Arterial Road – (Menai Town Centre LEP 1992) and Special Uses 5(a) – (Kurnell REP No.17)</p> <p>The following development requiring development consent: <ul style="list-style-type: none"> ✧ advertising ✧ ancillary development ✧ demolition ✧ drainage ✧ subdivision All other development requiring development consent</p>	<p>1</p> <p>1, 3</p>
<p>Recreation 6(a), 6(b), 6(c), 6(d) – (SSLEP 2000) and Recreation 6(a) – (Kurnell REP No.17)</p> <p>The following development requiring development consent: <ul style="list-style-type: none"> ✧ demolition All other development requiring development consent</p>	<p>1</p> <p>1, 3</p>
<p>Environmental Protection 7(a), 7(b), 7(c) – (SSLEP 2000) Waterways 7(a1) – (Kurnell REP No.17)</p> <p>The following development requiring development consent: <ul style="list-style-type: none"> ✧ demolition All other development requiring development consent</p>	<p>1</p> <p>1, 2, 3</p>

ZONE	FORM OF NOTIFICATION
<p>National Parks, Nature Reserves and State Recreation Areas 8(a) – (SSLEP 2000)</p> <p>No development requiring development consent</p>	
<p>Mixed Residential/Business 9(a) – (SSLEP 2000)</p> <p>The following development requiring development consent:</p> <ul style="list-style-type: none"> ✧ buildings more than 2 storeys ✧ building more than 3,000 m² floor area ✧ development containing more than 40 on-site car parking spaces <p>All other development requiring development consent, except:</p> <ul style="list-style-type: none"> ✧ advertising ✧ ancillary development 	<p>1, 2, 3</p> <p>1</p>
<p>ALL ZONES</p> <p>The following development requiring development consent:</p> <ul style="list-style-type: none"> ✧ Demolition or partial demolition, or alterations or additions to an item of environmental heritage, including archaeological items. <p>Note: Development of an item of environmental heritage or archaeological item, involving demolition, or a use contrary to the applicable land use controls of the LEP, must be advertised on at least two occasions in a local newspaper.</p> <p>Strata subdivision does not require notification or exhibition.</p> <p>Minor maintenance works involving replacement of existing materials with similar materials (generally structural works) do not require notification or exhibition.</p>	<p>1, 2, 3</p> <p>--</p> <p>--</p>

6. Origin

Edition 1:

Adopted by Council on 1 February 1993 (EHC 136).
In effect from 3 May 1993.

Edition 2:

Adopted by Council on 17 July 2000. In effect from 15 December 2000 (date of gazettal of Sutherland Shire Local Environmental Plan 2000).

Edition 3:

Minor alterations which make the document consistent with Sutherland Shire Local Environmental Plan 2000.

Edition 4:

Minor alterations following application of Edition 3.

Action	Date
Council Endorse Draft Plan	2 October 2001 (EHC 068-02)
Public Notice (draft)	9 October 2001
Exhibition - Start	9 October 2001
Exhibition - Finish	6 November 2001
Council Decision to Adopt Plan	10 December 2001
Public Notice in Newspaper	18 December 2001
In Effect from	18 December 2001