

Community Consultation Policy for Development Applications (Including Subdivision)

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1. Purpose

The objectives of this policy are to:

- establish a clear comprehensive and consistent process for community consultation for Development Applications
- ensure that the community is consulted.
 - during the decision-making process regarding development applications
 - during the formulation of development guidelines and policiesand that submissions received are taken into consideration by Council
- ensure that the consultation process allows the community access to relevant information about the proposal
- ensure that decision-making and policy formulation is undertaken in a wider and more informed context, especially having regard to the environmental, social, and economic impacts associated with development
- to articulate Council's policy for notification of applications over and above the mandatory requirements of the *Environmental Planning & Assessment (EP & A) Act 1979* and the *EP & A Regulation 2021* relating to Designated, Advertised, Integrated Development and Part 5 matters: and
- ensure that feedback is given to the community of decisions made.

2. Statement

- This document outlines Council's policy for community consultation in the assessment of development applications (including combined development/construction certificate applications and subdivisions) and the formulation of development guidelines and policies.
- This document also outlines the necessary procedures involved in carrying out such consultation.

3. Provisions

3.1. Exempt and Complying Development

This document does NOT apply in respect of any development that is Exempt or Complying Development, as listed in:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- Shoalhaven Local Environmental Plan 2014.
- Shoalhaven Development Control Plan 2014.

Exempt and Complying Development, or the modification of a Complying Development Certificate (CDC) will not be notified.

3.2. Disclosure of Political Donations and Gifts

From 1 October 2008 when lodging:

- i. A relevant planning application (eg; LEP, Section 7.11 Plan, DCP, DA or DA modification) - information about any reportable political donations and gifts (if any) made in the previous two years and up to determination of the planning application, must be disclosed. If a donation or gift was made after lodging a relevant planning application, the disclosure must be made within seven days of making the donation or gift.

Disclosure obligations for a relevant planning application include reportable political donations or gifts made by any person with a financial interest as defined by S10.4 of the *EP&A Act 1979* and referred to in Clause 8 of this Policy.

- ii. A submission on a relevant planning application (e.g., LEP, Section 7.11 Plan, DCP, DA or DA modification) - information about any reportable political donations and gifts (if any) made in the previous two years and up to determination of the planning application, must be disclosed. If a donation or gift was made after lodging a submission, the disclosure must be made within seven days of making the donation or gift.

Disclosure obligations for submissions made in relation to a relevant planning application relate to:

- a) All reportable political donations made to any local councillor (being donations of \$1,000 or more); and
- b) All gifts made to any local councillor or employee.

The disclosure obligations for submissions include reportable political donations or gifts made by an associate. An associate is defined by section 10.4 of the *EP&A Act 1979* and referred to in Clause 8 of this Policy.

Failure to disclose a reportable political donation or gift is an offence.

All disclosures of political donations and gifts will be made available to the public on Council's website in accordance with the Act.

Detailed information on disclosure obligations and a copy of the disclosure form and guide are available at www.planning.nsw.gov.au/donations .

Disclosures lodged by Councillors with the NSW Electoral Commission can be viewed at the NSW Electoral Commission website at <https://efadisclosures.elections.nsw.gov.au/> .

3.3.1 Minor development/ activities not requiring Notification

Certain development and/ or activities are considered minor in nature and are unlikely to adversely affect other property owners. These activities are listed in Table 1.

Notwithstanding the table:

1. Having regard to individual site circumstances, if Council considers a development is minor and persons will not be detrimentally affected by a proposed building or

structure after its erection, then at the discretion of the Director, City Development or his/ her delegate, the notification procedure may not be followed.

2. Any application for development which Council considers may have a significant impact will be notified at the discretion of the Director, City Development, or his/ her delegate.

Table 1 Development Not Requiring Notification

Development Not Requiring Notification		
Development	Requirement	
<p>Dwelling houses (including additions and ancillary structures)</p> <ul style="list-style-type: none"> • Detached single storey dwelling house. <i>Does not include second-hand dwellings, additional/secondary dwellings, managers' residences.</i> • Single storey additions/alterations to detached dwellings approved by Council. • Single storey carports, garages and pergolas associated with a detached dwelling house approved by Council. • Development ancillary or incidental to a detached dwelling house e.g., an outbuilding with a maximum area of 40m² or 5m in height. <p>Dual occupancy ancillary structures</p> <ul style="list-style-type: none"> • Single storey carports, garages and pergolas associated with a dual occupancy (attached or detached) approved by Council. 	Zone	Side/Rear Boundary Setback
	The setback from any side or rear boundary of the external wall of any structure is equal to, or greater than, the following: <i>Refer also to notes 1 and 2</i>	
	RU1 Primary Production	20m
	RU2 Rural Landscape	20m
	RU4 Primary Production Small Lots	Lot size up to 1ha = 10m Lot size greater than 1ha = 20m
	RU5 Village	900mm
	R1 General Residential	900mm
	R2 Low Density Residential	Lot size up to 1999m ² = 900mm Lot size between 2000m ² -3999m ² = 5m Lot size 4000m ² or greater = 7.5m
	R3 Medium Density Residential	900mm
	R5 Large Lot Residential	Lot size up to 1ha = 10m Lot size greater than 1ha = 20m
	SP3 Tourist	Lot size up to 1999m ² = 900mm Lot size between 2000m ² -3999m ² = 5m Lot size 4000m ² or greater = 7.5m
	C2 Environmental Conservation	20m
	C3 Environmental Management	20m
C4 Environmental Living	Lot size up to 1ha = 10m Lot size greater than 1ha = 20m	

<p>Swimming Pools and Outdoor Spa Baths</p>	<ul style="list-style-type: none"> On lots over 2000m² if the pool or outdoor spa bath (with minimum 10m side and rear boundary setback), will be ordinarily ancillary to a dwelling occupied for private use only.
<p>Demolition</p>	<ul style="list-style-type: none"> Garages, carports, and outbuildings constructed after 1990. Garages, carports, and outbuildings constructed before 1990 provided asbestos is not one of the construction materials.
<p>Industrial uses</p> <ul style="list-style-type: none"> Minor additions in keeping with surrounding developments and the local environment Change of use First occupation 	<ul style="list-style-type: none"> Existing approved use. Light Industry to Light Industry. No significant effect on the surrounding owners or the community.
<p>Commercial Uses</p> <ul style="list-style-type: none"> Minor additions in keeping with surround developments and the local environment Change of use First occupation 	<ul style="list-style-type: none"> Existing approved use. No significant effect on the surrounding owners or the community.
<p>Internal Alterations</p>	<ul style="list-style-type: none"> Internal alterations that will not have any impact beyond the property boundary.
<p>TPO Applications</p>	<ul style="list-style-type: none"> All applications other than those for any tree or stand of trees likely to have direct impact on amenity of adjoining residents.
<p>Subdivision (unless Integrated Development)</p> <ul style="list-style-type: none"> Minor boundary adjustments Strata subdivisions Community title subdivisions 2-lot subdivision for existing dual occupancy developments 	<ul style="list-style-type: none"> Not requiring physical works; and Notification has already been undertaken at the DA stage.
<p>Advertising Signs</p>	<ul style="list-style-type: none"> Applications which comply with Chapter G22: Advertising Signs and Structures of Shoalhaven DCP 2014.
<p>Amendments to DA prior to determination</p>	<ul style="list-style-type: none"> Requested by Council following preliminary assessment Requested by State Government Agencies, e.g., Rural Fire Service (RFS) following preliminary assessment. Made in response to objections received. Which are the result of conditions imposed on an application previously notified.
<p>Construction Certificate, Occupation Certificate and Compliance Certificate Applications</p>	<ul style="list-style-type: none"> Made under Part 6 of the <i>EP&A Act 1979</i>.

<p>Exempt and Complying Developments</p>	<ul style="list-style-type: none"> As prescribed in SEPP (Exempt and Complying Development Codes) 2008, Part 3 and Schedule 2 of Shoalhaven LEP 2014 and as set out in Shoalhaven DCP 2014.
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Notes on Table 1

- In the case of battle-axe allotments, the building meets the boundary setback requirements in relation to all boundaries (excluding the access handle).***
- An allotment may be affected by a restriction-as-to-user under Section 88B of the Conveyancing Act 1919 which defines a building envelope.***

3.4 Development Applications (including combined development/construction certificate applications and subdivisions), and Regional Development Applications

3.4.1 Regional Development Applications

Regional Development Applications (RDAs) are those applications referred to in the *EP&A Act 1979*, the *EP&A Regulation 2021* and the *State Environmental Planning Policy (Planning Systems) 2021*. The provisions of RDAs became effective on 1 July 2009. Applications are lodged, notified, and assessed by Council. Council’s Section 4.15 assessment report will be forwarded to the NSW Southern Regional Planning Panel (RPP) for consideration. A decision on the RDA will be made by the RPP. Council will then issue the consent or refusal and further notify the applicant and those who had made submissions of the RPP’s determination.

3.4.2 Legal Requirements

Council has certain obligations under the *EP & A Act 1979*, to notify owners of land whose enjoyment of that land may be affected by proposed development.

Certain categories of development (i.e., Designated Development, Advertised Development, Integrated Development, RDAs, and other forms of notified development) are required to be exhibited in accordance with the procedures for notification prescribed by the *EP & A Act* and *Regulation*. An Environmental Impact Statement prepared under Part 5 of the *EP & A Act* in respect of an “activity” for which development consent is not required must also be given in accordance with the *Act* and the *Regulation*.

Designated Development, State Significant Development and Nominated Integrated Development must be notified for a minimum of thirty (30) days from the day after a notice is published in the local newspaper. RDAs will be notified for a minimum thirty (30) days except where State legislation requires a longer notification period.

Note: The above requirements are mandatory and do not form part of this policy.

3.4.3 Who will be Notified?

All property owners and Council’s Community Consultative Bodies (CCBs), who in the opinion of Council, may be affected by a development proposal shall be notified in writing, in accordance with Table 1 – Community Consultation Matrix. In certain circumstances, the

Authorised Assessing Officer may use his/ her discretion to notify beyond the nominated buffer zones (refer Clause 3.3.17 of this Policy).

Exempt and Complying Developments and other development/ activities considered minor will not be notified (see Clause 3.3.19 of this policy).

Note: In establishing buffer zones, Council's GIS system is utilised by Council staff to identify properties to be notified (see examples shown in Diagrams 1a – 3b).

In accordance with Table 2, property owners to be notified shall include:

- those with land:
 - within the identified buffer boundary
 - where the identified buffer boundary runs through the land
 - where any part of their land boundary touches the buffer boundary (see examples shown in Diagrams 1a – 3b).
- an association for a community, precinct or neighbourhood parcel within the meaning of the *Community Land Development Act 2021* or a body corporate for a parcel within the meaning of the or the *Strata Schemes Development Act 2015 No 51* or *Strata Schemes Management Act 2015 No 50*;
- where land is accessed by a right-of-carriageway (ROW), all landowners benefiting from the ROW will be notified, if deemed affected by the development.
- where land is owned by a public housing provider such as the NSW Department of Housing; the Commonwealth Department of Defence or the NSW Aboriginal Housing Office, Council will notify the occupants of the land.
- where land is owned by the Crown, the Department of Lands.
- where the land is owned by a State Government Agency, e.g., National Parks and Wildlife Service but is not occupied for housing purposes, the property/ ownership branch of the relevant State Government Agency.
- where an application involves significant commercial development, the relevant Chamber of Commerce.

RDAs will be notified in accordance with Table 2, and also to relevant State agencies with the reasons for notification being advised. The form of notification will be in accordance with applicable State legislative requirements.

Table 2 – Community Consultation Matrix.

Degree of Community Consultation	Methods of Consultations	Issues to Consider to Determine Levels of Consultation	Examples – Depending on Particular Circumstances some Discretion will be used.
<p>Level 1: Neighbour notification within buffer of 25m radius in urban areas and 100m radius in rural areas.</p>	<p>Notification letters to all property owners affected within identified radius, see diagrams 1a and 1b.</p>	<p>Development:</p> <ul style="list-style-type: none"> • is of small to moderate scale • may impact on views or amenity of residents in the neighbourhood • may impact on the character of the neighbourhood; and • raises environmental issues. 	<ul style="list-style-type: none"> • ancillary residential development such as garages, carports, additions to existing dwelling-houses and swimming pools • additions to existing commercial or industrial premises • two-storey dwelling-houses • two-lot subdivisions other than the subdivision of existing dual occupancy developments • Bed & breakfast accommodation in an existing dwelling-house • dual occupancy development • development accessed by a right-of-carriageway • new retail, commercial and industrial activities • home activities with potential for external impacts; and • purpose-built bed & breakfast accommodation.
<p>Level 2: Neighbour notification within buffer of 60m radius in urban areas and</p>	<p>Notification letters to all property owners affected within identified radius, see diagrams 2a and 2b.</p>	<p>Development:</p> <ul style="list-style-type: none"> • is of moderate scale and significance 	<ul style="list-style-type: none"> • tourist development • medium density development up to and including 10 units • subdivisions of 3-10 lots

Degree of Community Consultation	Methods of Consultations	Issues to Consider to Determine Levels of Consultation	Examples – Depending on Particular Circumstances some Discretion will be used.
200m radius in rural areas.	Relevant CCBs and Chambers of Commerce notified.	<ul style="list-style-type: none"> • may impact on views or amenity of residents in the local area • may have impacts concerning the local community; and • raises significant environmental issues. 	<ul style="list-style-type: none"> • childcare centres; and • commercial and industrial proposals.
Level 3: Neighbour notification within buffer of 120m radius in urban areas and 500m radius in rural areas.	<p>Notification letters to all property owners affected within identified radius, see diagrams 3a and 3b.</p> <p>Relevant CCBs and Chambers of Commerce notified.</p> <p>Newspaper advertisement.</p>	<p>Development:</p> <ul style="list-style-type: none"> • is major • raises major environmental issues; and • may raise concerns for nearby residents, the wider community, and visitors to the area. 	<ul style="list-style-type: none"> • shopping centres • medium density development in excess of 10 units • subdivisions in excess of 10 lots • icon sites • major industrial developments • major community projects, e.g., cultural centres; public swimming pools, sports facilities/complexes • any development of public open space in Council ownership or Crown Land where Council is Trust Manager • large retail; and • any development involving the sale of liquor or adult goods or services.

Diagram 1a
Example of Level 1 - Neighbour notification within buffer of 25m radius in urban areas.



Diagram 1b
Example of Level 1 - Neighbour notification within buffer of 100m radius in rural areas.

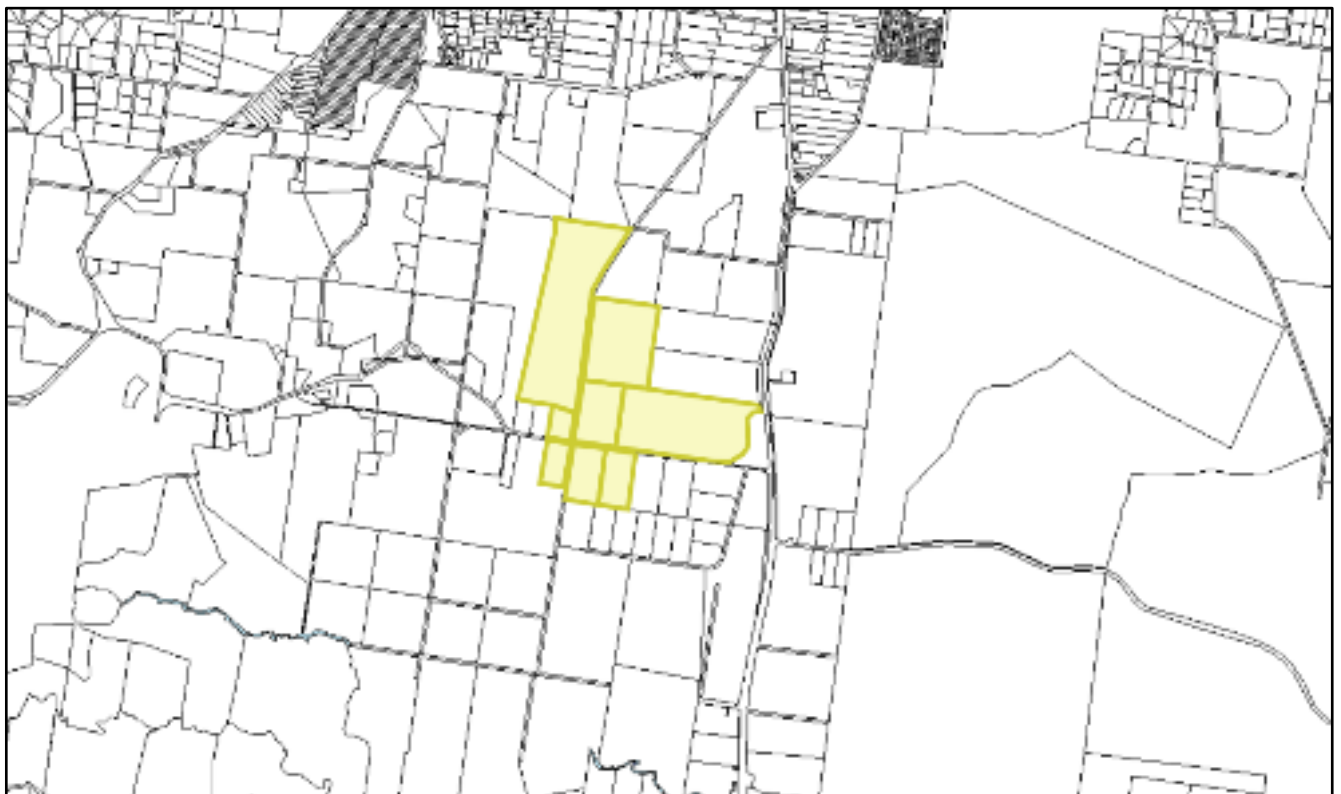


Diagram 2a

Example of Level 2 - Neighbour notification within buffer of 60m radius in urban areas.



Diagram 2b

Example of Level 2 - Neighbour notification within buffer of 200m radius in rural areas.



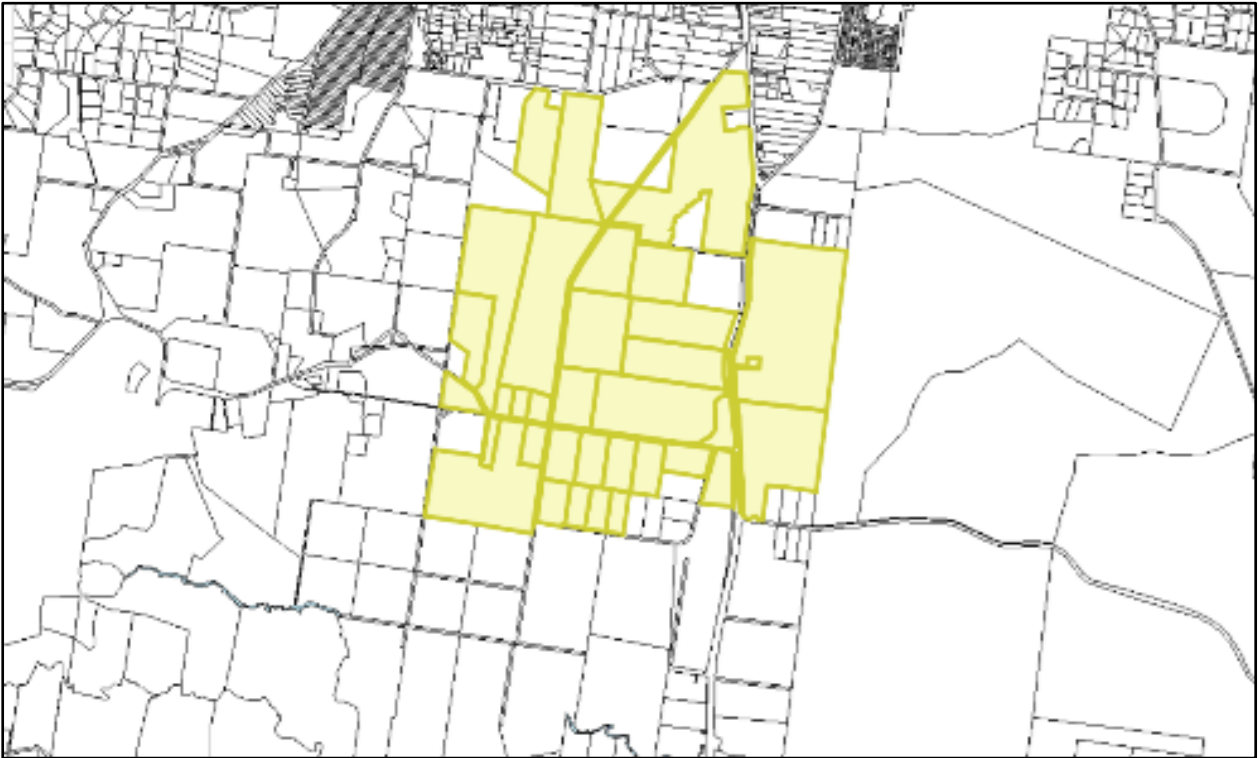
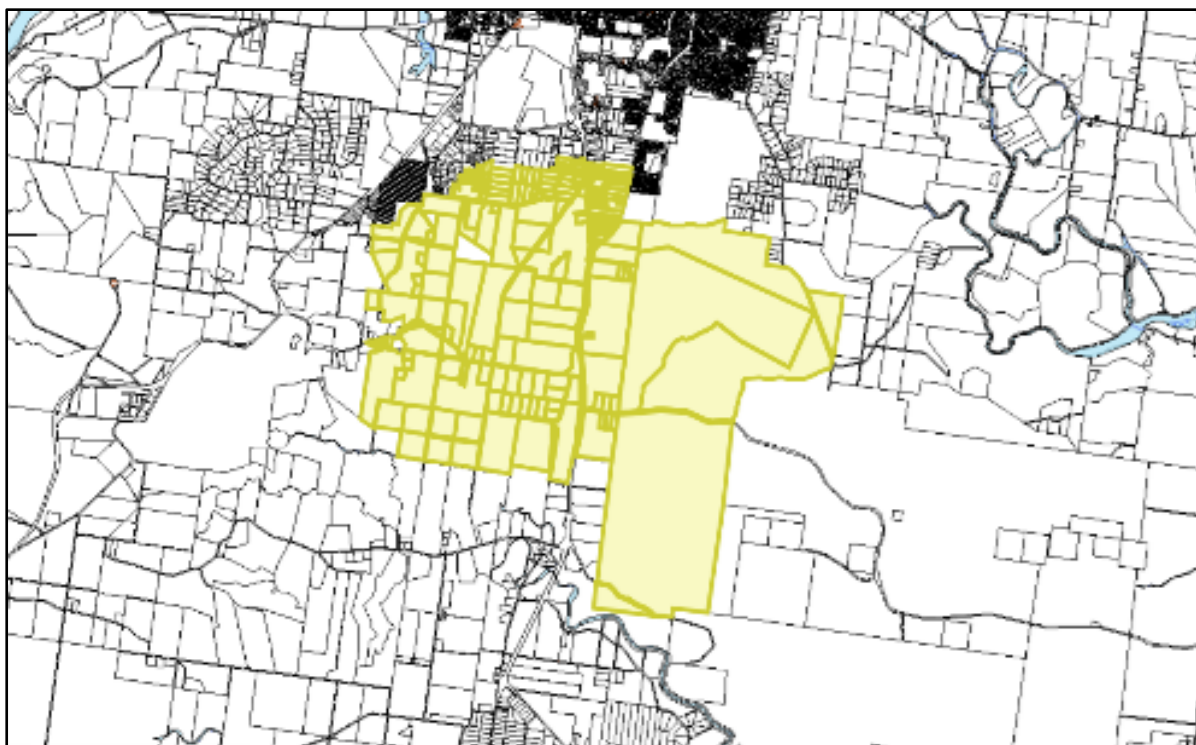


Diagram 3a
Example of Level 3 - Neighbour notification within buffer of 120m radius in urban areas.



Diagram 3b

Example of Level 3 - Neighbour notification within buffer of 500m radius in rural areas.



3.4.4 When will Applications be Notified?

Usually, applications will be notified after the registration of the DA. However, if an application is not supported by:

- plans and supporting documentation as set out in Council's Development Application Guidelines (and as required by Part 3 of the *EP & A Regulation 2021*) relevant to the proposal, or
- any other documentation considered necessary by Council for adequate assessment of the application

notification of the application may be delayed.

If an application is notified and the need for an independent specialist report is identified during the assessment process, the application may be re-notified upon receipt of the relevant report/s. Amended plans received during the assessment of an application may also be re-notified. **Re-notification will be at the expense of the applicant.**

3.4.5 Use of the Internet to display applications

All local DAs (which includes DAs for subdivisions), Complying Development Certificate Applications (CDCs) and RDAs are displayed on Council's website via Council's on-line DA Tracking system. This online information is available to any person at any time of the day by accessing the DA Tracking facility through Council's website www.shoalhaven.nsw.gov.au. Information about applications lodged before the 1 January 2006, is available by making contact with Council's Development & Environmental Services, during normal business hours.

For RDAs, in addition to details being available via Council's DA Tracking system, the application register is also available on the State Government's website at www.jrpp.nsw.gov.au

3.4.6 Details of on-line documents

The documents that will be displayed will include details and plans that will enable anyone to view them on-line. Details of such documents are being made available to the public in accordance with Schedule 1 of the *EP & A Regulation 2021* and the provisions of the *Government Information (Public Access) Act NSW 2009*.

Note that certain documentation such as the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and external configuration in relation to the site on which it is proposed to be erected, will not be made available due to privacy and copyright issues.

Council permits the downloading of material from Council's website in accordance with the terms and conditions as outlined on the website. Any modification, copying, reproduction, uploading to a third party, transmitting, or distributing in any way the content of Council's website, may only be carried out as expressly provided for in the Terms and Conditions of the website or as permitted by the *Copyright Act 1968*.

3.4.7 Submissions

Submissions in respect of an application must be received by Council within fourteen (14) days of the date appearing on the application or, alternatively, within such additional period as may be determined by the Director, City Development, or his/her delegate.

A submission may be made by any person whether or not that person has been, or is entitled to be, given notice under the provisions of this Policy.

All submissions must be addressed to the Chief Executive Officer .

Submissions must be made in writing or electronically. Contents of submissions should be restricted to environmental and planning matters relating to a DA and should NOT contain specific private, defamatory and risk to security information. If the submission is an objection to a DA, the submission must state the reasons for objection. Note that in accordance with Council's resolution of 28 February 2006, in the interest of public transparency, ALL submissions will be made available on Council's internet site, thus each submission in its entirety will be available to the applicant and/or any interested persons. This includes all submissions made by Members of Parliament (MPs) and/or Councillors on behalf of residents. Note that all submissions that are not electronically made will also be scanned and displayed on Council's internet site and Council is making that information available under the provisions of the *Government Information (Public Access) Act 2009*.

Persons making submissions to DAs are encouraged to do so via Council's on-line DA Tracking site.

Receipt of most DA submissions will be acknowledged. Receipt of submissions made by MPs and Councillors on behalf of residents will also be acknowledged. Submissions,

specifically relating to pre-printed/written form letters and petitions (including where a petition designates a contact person/organisation for the submission of the petition), will not receive formal acknowledgement or written feedback, however, will be considered in the assessment of the DA, where the DA is advertised in accordance with this policy.

3.4.8 Presentation at a RPP meeting

Persons (or persons on behalf of bodies) who made a submission on an RDA during the designated public exhibition period, may request to address the RPP (such requests can be made direct to the RPP secretariat prior to the meeting), see [Sydney and Regional Planning Panels | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](http://www.planning.nsw.gov.au/Sydney-and-Regional-Planning-Panels-Planning-Portal-Department-of-Planning-and-Environment) for further information.

3.4.9 Disclosure of Political Donations and Gifts when making a Submission

From 1 October 2008 when lodging a submission on a relevant planning application (e.g., LEP, Section 7.11 Plan, DCP, DA or DA modification), information about any reportable political donations and gifts (if any) made in the previous two years and up to determination of the planning application, must be disclosed. If a donation or gift was made after lodging a submission, the disclosure must be made within seven days of making the donation or gift.

The disclosure obligations relate to:

- (a) All reportable political donations made to any local councillor (being donations of \$1,000 or more); and
- (b) All gifts made to any local councillor or employee.

The disclosure obligations include reportable political donations or gifts made by an associate. An associate is defined by section 10.4 of the *EP&A Act 1979*.

Failure to disclose a reportable political donation or gift is an offence.

All disclosures of political donations and gifts will be made available to the public on Council's website in accordance with the Act.

Detailed information on disclosure obligations and a copy of the disclosure form and guide are available at www.planning.nsw.gov.au/donations.

Disclosures lodged by Councillors with the Election Funding Authority can be viewed at the Election Funding Authority website at www.efa.nsw.gov.au

3.4.10 Council Must Consider all Submissions

In determining applications, Council and/ or delegated officers of Council, must consider all submissions received within the period allowed for making submissions under the provisions of this policy, before the application is determined.

Nothing in this policy prevents Council and/ or its delegated officers from considering submissions which are received after the closing date.

Any submissions received will be considered during the assessment of the application. The online submission facility on Council's DA Tracking site will be available to anyone who

wishes to make a submission electronically, generally within 7-10 days of DA lodgment, until the nominated notification period ends.

Note that in accordance with this policy, not all DAs are required to be notified or advertised, however are still public documents and are made available on-line. Any submission received in respect to those DAs not required to be notified will be noted but will not necessarily receive formal acknowledgement or taken into consideration during the assessment of the application.

3.4.11 Applications reported to Council

If an application is listed for consideration by the elected Council, the applicant and all persons who made submissions will be notified of the meeting. As reports to Council are sometimes prepared at short notice, notification may be made by letter, email or telephone according to the circumstances of the case.

3.4.12 Applications reported to RPP

For RDAs, the Section 4.15 assessment report will be forwarded to the RPP for consideration. The Section 4.15 report will include submissions received during the designated public exhibition period of the RDA.

In addition, the elected Council may consider submissions relating to RDAs in a separate committee process and may wish to separately provide a report to the RPP (separate from the Section 4.15 assessment reporting).

3.4.13 Feedback

Any person who makes a submission in relation to an application will be notified, in writing, of Council's decision within 14 days of the decision having been made. However, due to the volume of submissions received in response to major development proposals, individual replies to specific questions raised in submissions cannot be guaranteed in all circumstances.

In relation to RDAs, after the RPP has made a decision on an RDA, Council will issue a consent or refusal and further will advise those who made submissions of the RPP's decision of that RDA. Note that the RPP's decision may also be viewed on the State Government's website at [Sydney and Regional Planning Panels | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](http://www.sydneypanel.com.au).

3.4.14 Community Groups and Chambers of Commerce and Industry

Community Consultative Bodies (CCBs) have been identified for various areas throughout the City. On request, Council will provide (on a weekly basis):

- computer printouts of all development and subdivision applications received; and
- details of Council contacts in respect of development and subdivision applications.

Note that Council's DA Tracking facility displays details and plans of all development applications received that will enable anyone to view them on-line. Details of such documents are being made available to the public in accordance with Schedule 1 of the *EP &*

A 1979 and Council is making that information available under the provisions of the *Government Information (Public Access) Act 2009*.

Individual applications will be specifically referred to the relevant CCBs.

- in accordance with Table 1; and
- if considered appropriate by the Director, City Development, or his/ her delegate.

Development applications for commercial development (including home activities and markets) which are required to be notified in accordance with this Policy will be notified to the relevant Chamber of Commerce and Industry.

3.4.15 Development Applications Made Over the Christmas Holiday Period

Any development application lodged during or after the second full week of December will be advertised for 28 days. Any application received by Council in the fourth week of December up to and including the 31st December will be advertised for 14 days when Council business resumes in the first week of January.

3.4.16 How does Notification fit into the Assessment process?

The process of the assessment of a local DA is illustrated in the flow chart on Diagram 4; and the processes involved prior to Council referring an RDA to the RPP for consideration and decision, is shown on Diagram 5. The charts illustrate how those applications are normally notified as soon as they are received by Council. For local DAs, the application may be re-notified when additional information is provided as a result of the assessment and notification processes.

Diagram 4: Development Assessment Process – Application Flow Chart

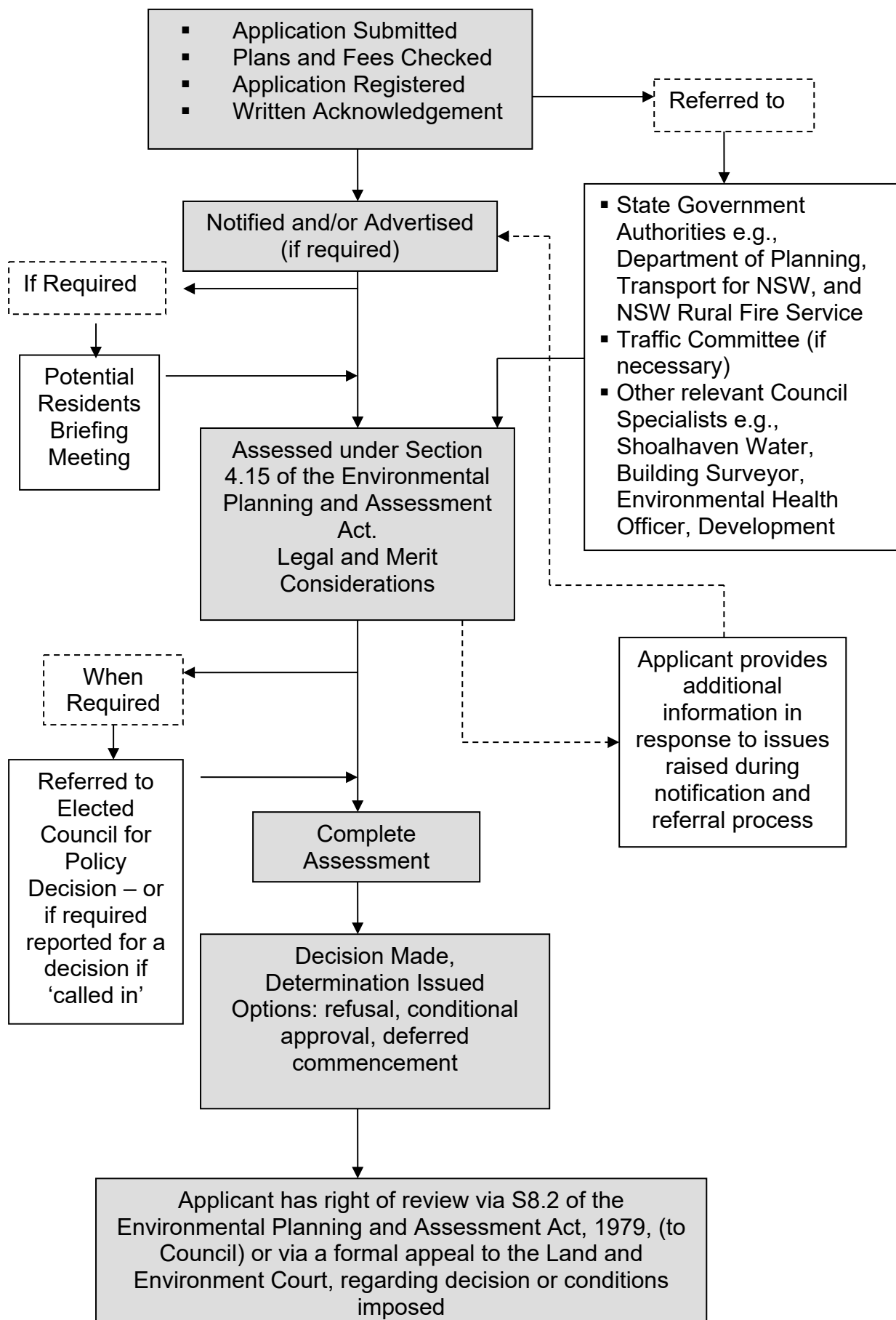
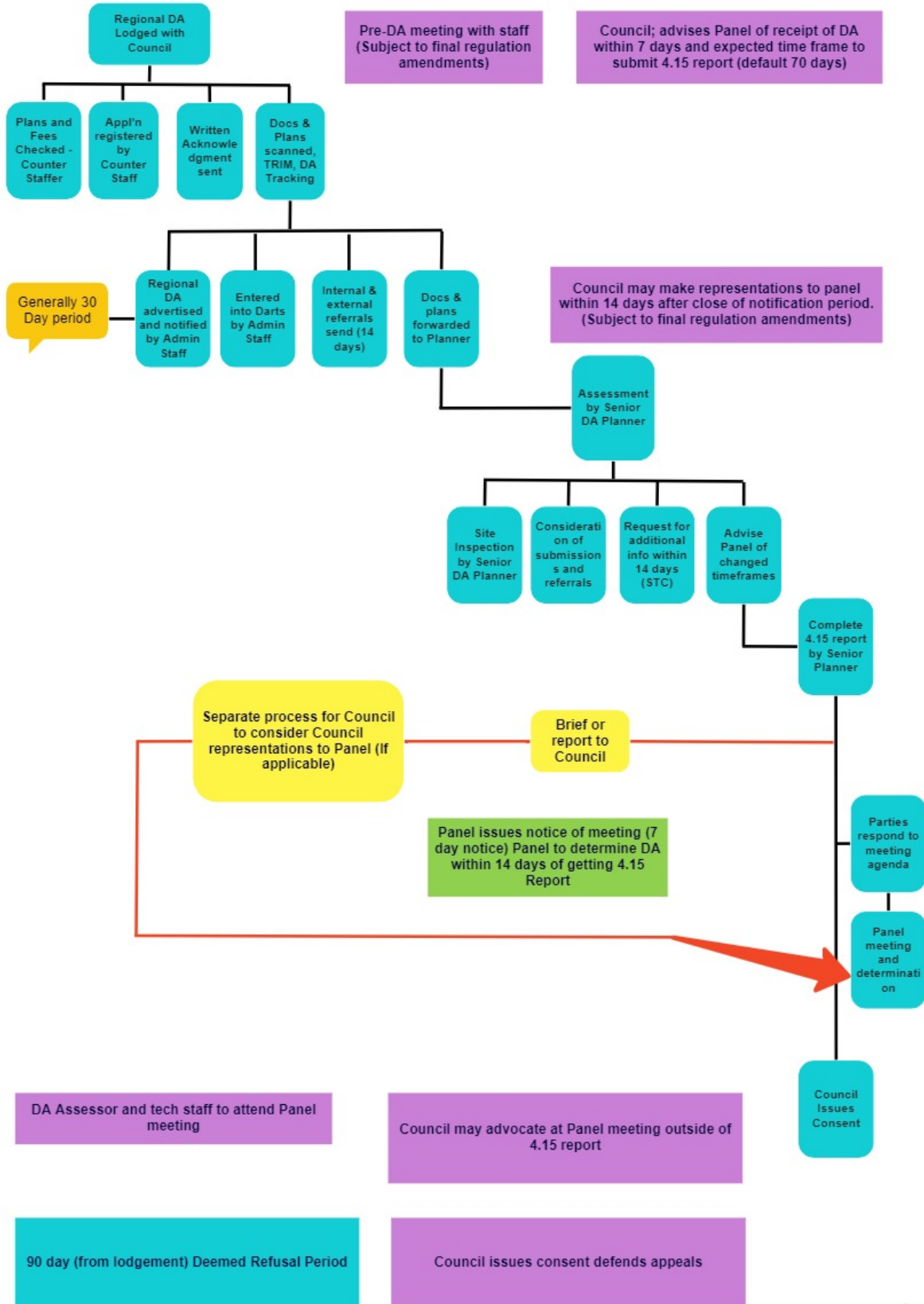


Diagram 5: Regional Development Application Flow Chart

Council Obligations Prior to Referring Regional DA's to RPP for Determination



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3.4.17 What are the Criteria for Neighbour Notification Beyond the Nominated Buffer Zones?

The following are examples of the criteria which guide the extent of the notification process in circumstances where a nominated buffer area needs to be extended:

- the siting of the building and its proximity to boundaries
- the design of the building, and in particular its height, bulk and scale and its relationship to the character of existing development in the vicinity and the streetscape
- the use of proposed rooms and the possible effect on adjoining land due to overlooking and loss of privacy
- the views to and from adjoining land, and affecting view corridors
- the extent of any overshadowing of adjoining land
- the potential impact of natural drainage of the site
- the likelihood of the adjoining land being detrimentally affected by noise
- any relevant matter in criteria in a local policy adopted under Part 3 of the *Local Government Act 1993*, by Council
- any relevant matter for consideration under Section 4.15 of the *EP & A Act 1979*
- the known level of community interest in a proposed development.

3.4.18 Development on Crown or Public Land

Where a Development Application is received on Crown or public land (that would otherwise normally generate public notification), that the notification procedures within this Policy be followed.

3.4.19 Form of Notice

DA notification, other than newspaper advertisement, shall contain:

- an invitation to inspect the application
- the property description or address of the site affected by the application
- a description of the specific development for which approval is being sought
- the application reference number
- the name of the applicant
- details of where the application can be inspected
- a note explaining that some documents relating to the application will be available on-line via Council's DA Tracking facility, and the progress of the application can be checked via this on-line link
- a statement that any person may make a submission in writing
- a statement that any submissions received will be made publicly available on-line
- the time within which written submissions will be received; and
- advice that:
 - pursuant to Section 10.4 of the *EP&A Act 1979*, any person making a public submission (whether opposing or supporting the application) in relation to a relevant planning application, must disclose all reportable political donations and gifts, made by the person making the submission or any associate of that person within the period commencing two (2) years before the submission is made and ending when the application is determined. If the political donations and gifts were made after the application or submission was made, the disclosure must be made within seven (7) days after the donations and gifts were made; and that in accordance with the Act, the disclosure will be made available to the public via Council's website.
 - in the interest of public transparency, all submission in its entirety will be made available on Council's internet site, and accordingly all submissions may be viewed by any person accessing the site
 - submissions may be made on-line via Council's DA Tracking facility
 - the substance of written submissions may be included in a report to Council
 - council is subject to Freedom of Information legislation and that copies of written submissions may be made available to any person entitled to lodge an application under this legislation
 - copies of subdivision plans and floor plans of residential parts of proposed buildings cannot be made available
 - submissions received in pre-printed form letters, which have been individually signed, or petitions will be considered but not formally acknowledged and that a summary of the form letter or petition may be displayed on-line; and

Newspaper advertisements shall generally be made in accordance with the provisions of the *EP&A Regulation 2021*.

3.4.20 Signs

A sign may be erected to identify those sites the subject of a development application and/ or a tree removal application, if the Director, City Development, or his/ her delegate considers such a sign to be appropriate having regard to the nature of the application or the location of

the site. Such consideration will have regard to Council's obligations under the *EP&A Act 1979* and *Regulation 2021*.

3.4.21 Building Profiles

In exceptional circumstances, having regard to the bulk and scale of a proposed development and potential impact on the amenity of adjoining properties, an applicant may be required to erect a building profile.

3.4.22 Plans and Associated Information to be Submitted with an Application

All applications must now be lodged through the NSW Planning Portal.

A DA for the erection of a building or structure must be accompanied by plans, showing the height and external configuration of the building/ structure in relation to the site on which it is proposed to be erected.

In order to preserve the integrity of documentation across multiple platforms, files must be supplied in Portable Document Format (PDF). Ideally, documents should be exported directly from the source software (CAD, word processing, spreadsheet etc) software directly to PDF. This method is most likely to preserve the visual quality of your submission.

Each plan must be supplied as a .pdf file no larger than 2mb in size and optimised for publishing to the web. All accompanying documentation must also be supplied as a PDF (a separate .pdf for each document), formatted to print on either A3 or A4 page and optimised for publishing to the web.

Files are to be supplied using descriptive file names and should include the file type extension (.pdf). File names must include, in order:

- Plan Description (e.g., elevation, site plan, floor plan)
- Plan Number (including version)
- Date Drawn (preferably in DDMMYYYY format).

For example:

- Elevation South v4 24112005.pdf or
- Site Plan 24112005.pdf

One file for each document/specification should also be provided. The file name must include, in order:

Document Name (e.g. Statement of Environmental Effects, Heritage Impact Statement)
Date of the Document.

For example:

- Statement of Environmental Effects v12 24112005.pdf
- Noise-Impact-Statement 24112005.pdf

The documents must be exact reproductions of the original source documents, as far as the pdf conversion process will allow.

The following minimum scales are required for urban development:

- general plans, floor plans, elevations, and sections 1:100
- site plans 1:200
- drainage plans 1:250
- detail (unusual construction features, engineering details, etc) 1:20

For subdivision layout plans – scale should be suitable to be clearly demonstrated on A3 sized page.

The following additional information may be required:

- an application for a Construction Certificate must be accompanied by plans prepared in compliance with the relevant requirements of the Building Code of Australia and include a minimum of two (2) sets of specifications
- any other information Council, or its delegated officers, considers necessary to assess the application under Section 4.15C of the *EP & A Act 1979*.

Where the proposed development does not involve the erection of a building or structure, or the form of the plan and details defined and described are inappropriate to a particular proposal, the applicant should consult with Council staff prior to lodging a development application.

3.4.23 Public Exhibition Period

A local DA shall be available for inspection from the day after the notice of the application is given for a minimum period of fourteen (14) days or such additional period as determined by the Director, City Development, or his/ her delegate.

RDAs will be notified for a minimum thirty (30) days except where State legislation requires a longer notification period.

Council DAs to be exhibited for a MINIMUM period of **28 days**.

Note: Council DA's will need to be accompanied by a statement explain how council will manage potential conflicts of interest. Or if there is no management strategy, a statement to that effect.

Council DAs must not be determined unless Council as an adopted conflict of interest policy and that council had regard to the policy.

During the exhibition period, any person may inspect, free of charge, during the ordinary office hours of Council, an application which has been notified whether or not that person has been, or is entitled to be, given notice under the provisions of this policy.

All DAs and modifications are available for public viewing on Council's DA tracking website.

3.4.24 Copies of Documents

Development applications and associated documents may be inspected at any time during Council business hours or via Council's DA Tracking Site. Advertised material displayed on the DA Tracking site. Any person may make extracts from, or copies of these documents provided such copying does not infringe the *Copyright Act, 1968*.

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. Certain dealings with copyright will not constitute an infringement, including a reproduction that is "fair dealing" under the *Copyright Act, 1968*. This would include a fair dealing for the purposes of research or study or a reproduction that is authorised by the copyright owner.

Any modification, copying, reproduction, uploading to a third party, transmitting, or distributing in any way the content of Council's website may only be carried out as expressly provided for in the Terms and Conditions of the website or as permitted by the *Copyright Act 1968*.

3.5 Demolition

An application for partial or total demolition of a building which is listed as an item of environmental heritage in *SLEP 2014* must be advertised in the local press in accordance with the requirements of *SLEP 2014, EP & A Act 1979* and *Regulation 2021*.

Where development consent has been issued and the proposed development includes the demolition of buildings, there is no subsequent requirement for demolition approval.

In all other cases, applications for demolition will be notified in accordance with this Policy.

3.6 Consultation Meetings

Consultation meetings may be undertaken in various forms appropriate to the circumstances as outlined in this Clause.

Meetings may potentially be held via a digital platform. This may be in response to public health requirements (e.g., in response to COVID) or during / after extreme weather.

The use of a digital platform may also be considered beneficial and appropriate in certain circumstances. For example, a digital platform may potentially provide greater access to those who are unable to drive to a venue due to their home or work arrangements.

Note that for RDAs, the provisions of this Clause may apply depending on the circumstances of the application.

3.6.1 On-Site Meetings

Where Council has received objections to a development proposal, an on-site meeting *may* be organised immediately following the close of the advertising period.

The aim of an on-site meeting is to provide residents with an opportunity to view the site and plans for the proposed development in the company of the applicant and his representatives and Council officers, and to ask direct questions in an informal setting.

There is no meeting agenda and no formal presentations. In the event that issues cannot be resolved through on-site discussions a formal resident briefing meeting may be convened, at the discretion of the Director, City Development, or his/ her delegate.

Only residents who have made submissions will be invited to an on-site meeting.

This provision may also apply to RDAs and in such instances, the period extended for submissions must have regard to Council's obligation to finalise its Section 4.15 assessment report.

3.6.2 Resident Briefing Meetings

Where Council has received numerous objections to a development proposal or issues have been unable to be resolved at an on-site meeting with Council officers and the applicant, a Resident Briefing Meeting may be organised and the period for the making of submissions may be extended. Such decision is at the discretion of the Director, City Development.

This provision may also apply to RDAs and in such instances, the period extended for submissions must have regard to Council's obligation to finalise its Section 4.15 assessment report.

The aim of a Resident Briefing Meeting is to provide a forum within which residents who have objected/ raised concerns regarding a proposal, the applicant and his representatives, Councillors and Council staff can meet to review and discuss the proposal. In this regard, an opportunity is made available for the Council and the applicant to deliver a short presentation.

A Resident Briefing Meeting is not a public meeting. In this regard, only those persons who have made submissions, the CCB of the area, the applicant and Councillors will be notified of the meeting.

3.6.3 Public Meetings

Where it is considered a development proposal will generate significant community interest, Council may arrange a public meeting so that:

- details of the proposal can be more fully explained
- community concerns can be discussed; and
- conflicts can be identified and possibly resolved.

Public meetings generally are held following a Council resolution. Such meetings are attended by Councillors, Council staff, the applicant and interested parties.

Public Meetings must be publicly notified in a local newspaper at least seven (7) days prior to the meeting. Furthermore any person objecting to the development will be individually invited to attend the public meeting, as well as the applicant. Any local community forum or precinct committee will also be advised in writing of the public meeting.

Where there is no Council resolution to hold a public meeting, the period extended for submissions must have regard to Council's obligation to finalise its Section 4.15 assessment report.

3.6.4 Mediation

In exceptional circumstances, mediation may be undertaken at the discretion of the Director, City Development.

3.6.5 Administrative Requirements for Resident Briefings and Public Meetings

Resident Briefing and Public Meetings are generally organised by City Performance.

Generally, a minimum of three (3) weeks is required for administrative purposes which include:

- diary reviews – the Mayor, Councillors, Directors
- arrange venue and identify requirements for seating, catering, public-address, audio-visual equipment, etc
- correspondence to Councillors, the Chief Executive Officer, Directors, CCBs, the applicant and objectors
- advertisement in local paper (Public Meetings)
- preparation of agenda, interpretative material, briefing for Chairman; and
- secretarial support (Public Meetings).

The likely need for a public or resident briefing meeting should be identified early in the process during pre-lodgement discussions or during the preliminary stages of assessment. However, it is not always possible to identify the need for such meetings until the exhibition period has closed. Those matters which may influence the decision to convene a meeting are:

- significant local response to the proposal
- the scale of the proposal
- whether or not the proposal is consistent with surrounding development
- the environmental significance attributed to the site and its surrounds
- history of resident concerns regarding development issues in the locality.

Only one (1) resident briefing meeting **or** one (1) public meeting may be convened per application, if required. The Director, City Development may convene a resident briefing meeting if considered appropriate. Public Meetings may be convened by the Mayor on behalf of Council.

Subject to the availability of the Mayor and Councillors, resident briefing and public meetings will be arranged after office hours at a convenient time and location for the applicant and the community.

3.7 Deputations to Council

On 27 June 2022, Council revised its [Code of Meeting Practice \(POL 22/5\)](#) which outlines the process for making deputations (presentations) to Council meetings

Information on the process and online applications to make a deputation at a Council Meeting under the Code can be found on the Council's website at:

<https://www.shoalhaven.nsw.gov.au/Services/Deputations>

Note: The format and process concerning deputations may be reviewed from time to time.

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3.7.1 Deputations to Council on RDA Matters and Addressing the RPP

Any deputations to Council with respect to any RDA matter will be a separate process to the processing and preparation of a 4.15 assessment report, under the *EP&A Act 1979*.

Persons (or persons on behalf of bodies) who made a submission on an RDA during the designated public exhibition period, may request to address the RPP (such requests can be made direct to the RPP secretariat prior to the meeting, see [Sydney and Regional Planning Panels | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](#) for further information.

3.8 Notification of Amendments prior to Determination

An applicant may (with prior consultation with the Director, City Development Services or his/her delegate) amend an application at any time prior to the determination of the application.

For significant amendments submitted prior to determination, the Authorised Assessing Officer will re-notify those amendments, in accordance with this Policy. If the Authorised Assessing Officer determines that in the circumstance the amendment may have a lesser or same affect, then, re-notification is not required under this Clause and submissions on the original application will be considered in the Council's assessment.

Where an amendment is made under this Clause, any re-notification of the development will attract an additional notification fee at the expense of the applicant. The fee is payable upon submission of the amended application.

3.9 Amendments to Development Consent Pursuant to Section 96 of the EP & A Act 1979 (Post DA Determination)

Under Section 4.55 of the *EP & A Act*, Council may modify a development consent. Council must be satisfied that the proposed modification is substantially the same development for which the consent was *originally* granted and before that consent as originally granted was modified (if at all). There are three (3) categories of modification:

1. A minor modification to correct a minor error, misdescription or miscalculation [modification under Section 4.55 (1) of the *EP&A Act*].
2. A modification involving minimal environmental impact [modification under Section 4.55 (1A) of the *EP&A Act*]; and
3. Any other application for modification of a development consent [modification under Section 4.55 (2) of the *EP&A Act*].

Minor modifications to correct a minor error, misdescription or miscalculation will not be notified.

Modifications involving minimal environmental impact. Applications for modification to a development consent involving minimal environmental impact will not be notified (other than Designated Advertised or Integrated Development). Such applications may include the following:

1. Minor modifications that, in Council's opinion, do not materially change the external appearance of the development and will have no adverse impact on the amenity of adjoining properties.
2. Applications for deletion of conditions where the modification relates only to conditions of development consent; the grounds for modification are that the condition is unreasonable and/or inappropriate in the circumstances; the application is the first one made in relation to the development; and the application is received within 12 months of the endorsement date of the development consent.
3. Applications for an extension of time for an Advertising Sign.
4. Applications for an extension of time for a Home Activity, where there is no history of complaints in relation to that activity.
5. Applications for an extension of time for a Market, where there is no history of complaints in relation to that market.

For all other modification of development proposals, notice of the proposed modification will be notified in the same manner as the original development application was notified or advertised (other than where the original consent was for Designated Development, State Significant Advertised Development, Integrated Development and any other advertised development where Council is not the consent authority, with the exception of the Land and Environment Court). Any person who made a submission, whether or not that person was notified of the original development application, also will be notified.

Note:

1. ***Having regard to individual circumstances, if Council considers an application for modification of development consent will involve minimal environmental impact, then at the discretion of the Director, City Development or his/ her delegate, the notification procedure may not be followed.***
2. ***Any application for modification of development consent may be notified at the discretion of the Director, City Development or his/ her delegate.***

A period of 14 days shall apply for submissions. A written notice shall be generally in accordance with Clause 3.2.17 – Form of Notice.

Where an application for modification of a development consent involves Designated Advertised or Integrated Development, the modification will be notified in accordance with the *EP & A Act 1979* and *Regulation 2021*.

For RDAs, the modification of such consents under the *EP&A Act 1979* will be assessed in accordance with the legislative requirements and referred to the RPP for consideration and decision.

3.10 Review of Determination

Under Section 8.2 of the Act an applicant may request Council to review its determination of an application (other than an application for a complying development certificate, designated or Crown development). A request for review must be received within 12 months (unless otherwise prescribed) of receipt of the determination. A decision on review may not be further reviewed.

A request for review in respect of an application previously notified will be notified in the same manner as the original development application was notified or advertised and in accordance with this Policy.

Note: may also be the subject of a review.

4 Implementation

This policy will be implemented by the City Development Directorate in the assessment and determination of development applications. The City Futures Directorate is primarily responsible for the formulation of development guidelines and policies.

5 Review

This policy will be reviewed within one year of the election of every new Council, or earlier should circumstances arise to warrant revision.

6 Application of ESD Principles

This Policy supports Council's commitment to ESD principles through:

Social Integrity

- establishment of clear written guidelines on community consultation for Development Applications (including subdivision) and the formulation of development guidelines and policies
- dissemination of information to the community
- equal access to information
- fostering community involvement in the decision-making process; and
- developing strong partnerships with the community.

7 Definitions

Authorised Assessing Officer means the Council officer who is responsible for the processing, assessment, and determination of an application (for applications that are not referred to full Council meeting for consideration).

Community has the same meaning as defined in Council's Community Consultation Strategy.

Designated development is development listed in Schedule 3 of the *EP & A Regulation 2021* for which an environmental impact statement is required.

Gift means a gift within the meaning of Part 2 of the *Electoral Funding Act 2018*. Note: A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 4 of the Electoral Funding Act 2018 gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service for no consideration or for inadequate consideration, other than—

- (a) the provision of voluntary labour, and*
- (b) the provision of voluntary professional services to a party by an officer or an elected member of the party.*

Integrated Development is development that is described under Section 4.46 of the *EP & A Act 1979*

Local councillor means a councillor (including the mayor) of the council of a local government area.

Other advertised development is any development that is identified as advertised development in a local environmental plan or DCP.

Person with a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

Persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business

- together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
 - c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
 - d) they have any other relationship prescribed by the regulations.

Relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
 - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
 - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
 - d) an application for development consent under Part 4 (or for the modification of a development consent), or
 - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

Relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

Relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

Reportable political donation means a reportable political donation within the meaning of Part 2 of the *Electoral Funding Act 2018* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 6 of the Electoral Funding Act 2018 reportable political donation is defined as follows:

86 Meaning of “reportable political donation”

(1) For the purposes of this Act, a **reportable political donation** is—

- (a) in the case of disclosures under this Act by a party, elected member, group, candidate, associated entity or third-party campaigner—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group, candidate, associated entity or third-party campaigner, or
- (b) in the case of disclosures under this Act by a major political donor—a political donation of or exceeding \$1,000 made by the major political donor to or for the benefit of a party, elected member, group, candidate, associated entity or third-party campaigner.

- (2) *A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other earlier, separate political donations made by that entity or other person to the same party, elected member, group, candidate, associated entity, third-party campaigner or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1)*

State Significant development is development that is declared to be State significant development by a State Environmental Planning Policy, Regional Environmental Plan, Local Environmental Plan or the Minister as the case may be in a range of particular circumstances.

8 Abbreviations Used In This Policy

CCB	Community Consultative Body
CCP	Community Consultation Policy
DA	Development Application
DCP	Development Control Plan
EP & A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP & A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
ESD	Ecologically Sustainable Development
RPP	Regional Planning Panel
LG Act	<i>Local Government Act 1993</i>
SEPP	State Environmental Planning Policy
SLEP	<i>Shoalhaven Local Environmental Plan 2014</i>
RDA	Regional Development Application