

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 21 August 2017

**PE3 – Review of Wollondilly Development Control Plan 2016 – Housekeeping Amendments**

PE3

**Review of Wollondilly Development Control Plan 2016 – Housekeeping Amendments**

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TRIM 3615-7

**EXECUTIVE SUMMARY**

- Under the Environmental Planning and Assessment Act 1979, Council has the responsibility of maintaining a Development Control Plan (DCP).
- The DCP is being reviewed as part of Council's Continuous Improvement Review Program with the intent of removing any requirements which cause unreasonable delays to the assessment and processing of development applications.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that:
  - The draft plan be publically exhibited by:
    - An advertisement in a local newspaper;
    - Writing to those who participated in the initial engagement on the draft plan;
  - A further report come to Council after the conclusion of the exhibition period and that this report include an assessment of the content of all submissions and a comparison of the provisions in the current DCP compared to the new DCP.

**REPORT**

**BACKGROUND**

In 2016 as part of Council's Success Management initiative a program of Continuous Improvement Review was established. The purpose was to review Council's systems, processes and procedures and how services are delivered to the community with a view to improving the organisation's efficiency and effectiveness.

The "development assessment service" was identified as one of a number of priority areas within the organisation and due to immediate growth and resourcing demands was identified and progressed as an initial pilot review.

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The review, which was facilitated by Martin Bass of Local Government NSW and involved a series of workshops held with over 50 staff, along with a SWOT analysis and staff surveys in November/December, 2016 to inform the preparation of a report including recommendations.

In January, 2017 the Continuous Improvement Program co-ordination team identified 14 actions along with timeframes for implementation which included an action to review Council's Development Control Plan. The review of the Development Control Plan was recommended to focus on:

- Streamlining documents
- Removing unnecessary administrative burden which hinders the development assessment process
- To reflect local arrangements.

A review of this nature also provides an opportunity to incorporate other minor changes to the development control plan so long as they won't add significant delays to the timeframe to complete the project.

Additionally, a continuous improvement program for the Development Engineering section identified the need for more master planning work. Flowing from this is a revised master plan for East Tahmoor.

**Components of the DCP Review**

The tasks that were undertaken by staff in the review of the DCP and the outcomes are detailed below:

1. Establish staff experience with the current DCP

Consultation was undertaken with internal staff to gain an understanding of their experience with the DCP and the controls that they believe are causing the most significant delays and administrative burden. The outcomes are discussed below under Consultation.

2. Review of the table of suggested amendments to the DCP

Since the commencement of Wollondilly Development Control Plan 2016 (which commenced on 20 January, 2016), Council's Strategic Planning Team has managed a table which includes suggested changes from internal staff and external stakeholders. The table is updated as suggestions are received with the intention of informing future reviews of the DCP. As part of this housekeeping review, the table of suggested amendments was reviewed to inform changes.

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Some of the issues captured are not relevant as they would require further investigation or changes that are beyond the scope of the housekeeping changes.

3. Review Variations Register

Council also maintains a register of DCP variations. The register is a record of development applications where a variation to a control in the DCP has been considered by Council and whether or not the variation has been supported. A review of the DCP variations supported by Council between May, 2016 and May, 2017 has been undertaken. The statistics on the DCP variations is included in attachment 4.

The intention of this task is to identify controls that are being varied by Council on a regular basis, as this will be an indicator that the control may be onerous and requires amendment.

The main controls which have been varied consistently and will be revised are as follows:

- Volume 1 - Part 9.3.4 - Mapping of Riparian Buffers (10 variations)
- Volume 4 - Part 3.9.7 - Ancillary Building Setbacks on Rural Lifestyle Lots and Rural Lots (17 variations)
- Volume 4 - Part 3.12.5 - Front setback requirements for car ports (6 variations)
- Volume 4 - Part 3.14.16 - Other setback requirements for Secondary Dwellings (10 variations)
- Volume 4 - Part 3.14.16 - Front door location on Secondary Dwellings (17 variations)
- Volume 4 - Part 3.15.18 - Maximum number of garage doors in dual occupancy developments (5 variations)
- Volume 5 - Part 2.3.7 - Glazing requirements for the front façade of commercial buildings (6 variations)

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4. Review Planning Controls - Land at Bingara Gorge

A review of planning controls that relate to land at Bingara Gorge has been undertaken to amend out-dated controls. In 2016 a Land and Environment Court Judgement was made which affected controls relating to land at Bingara Gorge Wilton. The current DCP limits the development of Bingara Gorge to 1165 lots; however, the court judgement had the effect of repealing this requirement and enables the site to be developed to a maximum yield of 1800 lots and also affects other controls in the DCP. As a result, many of the site specific controls in volume 2 relating to land at Bingara Gorge are now inconsistent with the findings of the court judgement and the controls will need to be updated. If this is not undertaken, then future subdivision DA's resulting from the court judgement are unlikely to comply with the DCP and will require onerous DCP variations. The revised Lot yields are outlined in attachment 1 and a revised section containing all Bingara Gorge Controls is provided in attachment 7.

5. Establish experience of external stakeholders

Six (6) companies who had submitted the most number of development applications to Council in the prior twelve months were identified as part of this process and were invited to meet with Council to discuss issues that were causing unreasonable delays or burden in the DCP. Only two of the companies that Council approached agreed to meet with Council or provide comments within the requested period. A summary of the feedback received is outlined below under consultation.

Some of the feedback to staff received was that the 2016 DCP had resolved many of the past issues.

6. Review consistency with SEPP's

The proposed amendments ensure that various development is consistent with the controls in state environmental planning policies, including the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and the State Environmental Planning Policy (Affordable Rental Housing) 2009.

In particular, DCP Volume 4 Part 3.14 (Secondary Dwellings) has been amended to comply with the requirements of the Affordable Housing SEPP and the proposed new section is included in attachment 3.

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The section on Secondary Dwellings has been split into two sections as follows:

a) Secondary Dwellings in Residential Zones:

The Affordable Housing SEPP sets particular standards for Secondary Dwellings in residential zones (other than R5 zones). This section has been made consistent with the criteria in the Affordable Housing SEPP (particularly setbacks) but with the exception of cut/excavation standards in the SEPP.

The SEPP enables excavation of 3m depth for a Secondary dwelling; however, the current maximum level of cut of 2.0m is considered more appropriate and should be retained. Allowing a 3m depth of cut in residential zones would likely impact on streetscape in many cases.

b) Secondary Dwellings in Rural zones:

A section has been included relating to Secondary Dwellings in Rural and Environmental zones (which are not affected by the affordable housing SEPP). This section is consistent with the controls for single dwellings in rural and environmental zoned lots in the DCP.

**CONSULTATION**

**Internal Consultation with Council's Development Assessment Team**

An internal workshop was held with staff from development assessment to gain an understanding of staff experience with the DCP and to identify the key controls and processes that they believe are causing the most significant delays and administrative burden.

The key findings from this workshop were as follows:

- More flexibility is required around when development applications should be notified. Team Leaders/Managers should have discretion around when notification is not required,
- Wording needs to be clearer throughout Part 4 – Community Engagement, Volume 1 – General of the DCP to avoid the potential for confusion,
- DCP Objectives need to be reviewed and written in Plain English, and
- The role and structure of the Variations Panel need to be reviewed.

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A number of changes are proposed to the DCP in response to this feedback, particularly around building in flexibility around notification and reviewing the wording. There is merit in reviewing the DCP objectives and this should be undertaken in light of and to align with the recently adopted Community Strategic Plan and is beyond the scope of the current DCP review and should be pursued separately. A process is already underway to review the role and structure of the Variations Panel which is independent of the DCP review given the DCP does not instruct how the panel works.

A number of other actions were identified which are either beyond the scope of the current review due to the tight timeframe or are complementary to the proposed changes and these will be pursued separately as well.

Internal Consultation with Council's Engineering Team

Council's Engineering Team requested that a revised structure plan for the East Tahmoor Residential Lands precinct be inserted to reflect existing approved subdivision applications within this precinct and provide a more connected and usable road layout. The revised structure plan put forward by Council's Engineering Team is provided in attachment 8 and it is considered that the revised plan would reduce the number of variation requests that are likely to occur with future subdivision applications in this precinct.

Internal Consultation with Council's Building Team

Consultation was undertaken with Council's Building Team and detailed comments were received. The main concerns raised were as follows:

- Inconsistency of certain sections of the DCP with the Affordable Rental Housing SEPP;
- The requirements of Part 2.10 relating to special requirements for parking areas near dwellings are too onerous and are inconsistent with the BCA and the Exempt and Complying SEPP;
- Setback requirements for car ports and ancillary buildings are onerous in some cases;
- The requirements for ancillary buildings requiring special design treatment is onerous in some cases (particularly when those structures are visible from a public road);
- Clarification is required as to whether the total floor area for an ancillary building relates to enclosed floor area or roof area.

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External

Six (6) companies who submitted the highest number of development applications to Council from May 2016 to May 2017 were invited to meet with Council/provide written advice to discuss matters that they believed were holding up their development applications. No written responses were received; however, two of the companies met with Council to discuss their concerns, the main concerns that were raised are outlined below as well as Council's view on the suggestion made:

Suggestion	Council Planner's Comment
The section of the DCP relating to Secondary Dwellings contains several onerous controls and is inconsistent with the Affordable Housing SEPP	The changes have been implemented and are shown in attachment 4.
A separate section should be inserted into the subdivision volume which includes controls relating to the subdivision of an existing dual occupancy	A separate section will be included for Public exhibition.
A maximum floor area of 240 square metres in rural lifestyle and rural lots is unreasonable and does not represent the space that people require	A maximum of 240 square metres is considered reasonable for a residential storage shed on a rural lot and no change is proposed.
Explanatory notes should be considered in some sections to explain controls	Explanatory notes have been added in some sections as suggested.
The setback requirements for single dwellings on battle axe allotments needs to be clarified	Amendments have been inserted as suggested.
The controls for boarding houses and hostels relating to maximum density and the maximum floor area of each room are contradicting and should be reviewed	Amendments have been inserted as suggested.
Where a battle axe style dual occupancy development is proposed and the location of an existing dwelling on the site prevents the required 5 metre access handle being achieved, a lesser access handle width where the handle passes the dwelling should be considered provided the sealed component can achieve a 3m width.	Council's Engineers have been consulted on this matter and recommended that the 5m access handle width be retained.



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Suggestion	Council Planner’s Comment
The DCP states that the front setback for the front dwelling in a medium density development shall be within +/- 10% of the average of the setback for the two dwellings on adjoining lands, however, the medium density zones often have established housing where the existing dwelling is setback quite some distance from the street and if this control is imposed then it effectively prohibits medium density development in a lot of these areas	Amendments have been made as suggested.
Council should consider amending the controls which apply to dual occupancy development to enable the floor plan to be mirror reversed provided that the front façade of each dwelling is different.	It is proposed to retain the current control to ensure variety in the floor plan layout of each dual occupancy dwelling.
The control which requires a 24 metre frontage in order to carry out a dual occupancy development with one dwelling next to the other encourages dual occupancy development in a battle axe layout where they may be appropriate side by side.	It is proposed to retain this control to ensure that an adequate frontage is provided.
In medium density development where there are a substantial number of dwellings proposed, Council should consider some flexibility in the control regarding repeated facades, as it would be reasonable to expect some of the dwellings to repeat in some instances (where the dwellings are not next to each other	Amendments have been made as suggested.

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**FINANCIAL IMPLICATIONS**

This matter has no financial impact on Council’s adopted budget or forward estimates.

**ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET**

1. Table summarising proposed Housekeeping changes to DCP 2016.
2. Amended table outlining development that does not require neighbour notification.
3. Table outlining when an application to modify consent should be notified to adjoining landowners.



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4. Amended list of development controls for Secondary Dwellings.
5. DCP variation statistics (May, 2016 to May, 2017).
6. Community Engagement Strategy.
7. Updated planning controls for Bingara Gorge.
8. East Tahmoor Structure Plan.

**RECOMMENDATION**

1. That the Draft Plan be publically exhibited in accordance with the Community Engagement Strategy in Attachment 6 including:
  - An advertisement in a local newspaper
  - Writing to those who participated in the initial engagement as part of the review program for further comment
2. That Council write to the six companies that submitted the highest number of development applications drawing their attention to the exhibited document and inviting their comments.
3. That a further report come to Council after the conclusion of the public exhibition.