

# Richmond Valley Development Control Plan 2015

## Part J. Notification and Advertising of Development

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:  
22 December 2015

Effective Date:  
4 January 2016

Amendments:  
Nil

Public participation is an essential component of the development assessment process. This Chapter seeks to ensure that public participation is facilitated in an orderly and transparent manner when dealing with development applications and related matters likely to impact on adjoining properties or the wider community.

The *Environmental Planning and Assessment Act 1979* and the Regulations contain provisions specifying the minimum exhibition requirements for development identified as “advertised development”. They further provide that a development control plan can:

- ∅ add to the types of development to be considered as “advertised development”,
- ∅ specify development to be notified or advertised, and
- ∅ specify development that need not be notified or advertised.

**Note.** This DCP does not cover Designated Development or State Significant Development. Reference should be made to the relevant sections and clauses of the EP&A Act and Regulations for their specific advertising requirements.

This DCP specifies types of development requiring public notification and the minimum exhibition requirements. There are essentially three methods of public notification that will be utilised by this DCP, they involve:

- ∅ a formal written notice—a letter to persons identified as potentially being impacted upon by a development proposal giving an opportunity to make a written submission,
- ∅ an informal written notice—a courtesy letter to persons identified as potentially having an interest in a development proposal, and
- ∅ a published notice—public notice displayed within a local newspaper, or by any other statutorily prescribed means.

## J.1 General Objectives

The general objectives of this Part are to:

- (1) provide an opportunity for public participation in the development application process and invite comment on such matters.
- (2) ensure consistency in the notification of similar applications.
- (3) identify development applications that will be notified (formal/ informal) and/or advertised and those persons who will be contacted.
- (4) ensure that the views of interested persons are considered before determining applications.
- (5) outline procedures for the notification and advertisement of development applications, applications to modify development consents, and the review of development consents.
- (6) specify circumstances when notification of development applications is not required.

## J.2 Categories of Development

### Objectives

- (1) to identify development types and the minimum notification and/or advertising requirements for each.
- (2) to require development to be advertised and/or notified where it is considered there may be community interest.
- (3) ensure consistency in the notification of similar applications.

### Controls

- (1) For the purposes of this DCP development has been divided into 5 categories (Category "A", Category "B", Category "C", Category "D", and Category "E"). Each category of development specifies different exhibition requirements outlined within Table J.1.

**Note.** The advertising and notification procedures for Categories "A" and "B" are defined by clause 89 of the Regulation. This DCP cannot be inconsistent with those prescribed procedures.

- (2) Table J.2 defines development types and prescribes a Category for exhibition purposes.

**Note.** Council's Assessing Officers, Management or the *Development Assessment Panel (DAP)* reserve the right to neighbour notify or advertise any development if it is considered the impact of the development warrants neighbour notification/ advertisement.

- (3) Where:
  - (a) a development proposal is identified in Table J.2 under several different Categories, or
  - (b) an application is received containing multiple development types across different Categories,the application will be advertised/notified as per the higher Category ("A" being highest, and "E" being lowest).

Table J.1 –Advertising and Notification Categories (this DCP Covers those sections within red outline)

<b>Designated Development</b>	<b>State significant development</b> (Division 6 of Part 6 of the EP&A Reg 2000)	<b>DCP Coverage</b>				
		Advertised Development (cl.5 of EP&A Reg 2000)		Other Notifiable Development (sect. 74C(c) of EP&A Act 1979)		Excluded Development
		Other advertised development		Other Notifiable Development (sect. 74C(c) of EP&A Act 1979)		
Ø Nominated Integrated Development- ⇒ <i>Heritage Act 1977</i> ⇒ <i>Water Management Act 2000</i> ⇒ <i>Protection of the Environment Operations Act 1997</i> Ø Threatened Species Development Ø Class 2 Aquaculture Development (SEPP62)		Ø Class 1 Aquaculture Development (SEPP62)	Ø Advertised Development identified in a DCP (sect. 74C(b) of EP&A Act 1979)	Ø Specified Development identified in a DCP (other than Advertised Development) Ø Request for a <b>Review of Determination</b> where making amendments to the original proposal Ø Application for <b>Modification of a development consent</b> for "specified development"		
Refer to section 79 Act and the Regulation for details	Refer to Act, Regulation and/or SEPPs for details	<b>Categories for Notification and/or Advertising of Development</b>				
		<b>"A"</b>	<b>"B"</b>	<b>"C"</b>	<b>"D"</b>	<b>"E"</b>
		Written Notice and Published Notices	Written Notice and Published Notice	Published Notice only	Written Notice only	No advertising or notification required
Min. 30 Day exhibition period	Min. 14 Day exhibition period	Min. 14 Day exhibition period	Min.14 Day exhibition period			
<b>Note.</b> Exhibition periods expressed are in calendar days						

**Table J.2 – Advertised Development (and excluded development) Categories**

- ∅ Advertised Development – requiring a published notice and written notice for 30 days (identified as Category “A” in the following table).
- ∅ Advertised Development – requiring a published notice and written notice for 14 days (identified as Category “B” in the following table); and,
- ∅ Other Notifiable Development – requiring a published notice for 14 days (identified as Category “C” in the following table);
- ∅ Other Notifiable Development – requiring a written notice for 14 days (identified as Category “D” in the following table); and
- ∅ Excluded Development – not Advertised Development (no notification required, or informal notification) (identified as Category “E” in the following table).

Development Type	Category				
	A	B	C	D	E
<b>Nominated Integrated Development-</b> being development requiring approval under: ⇒ Heritage Act. ⇒ Water Management Act. ⇒ Protection of the Environment Operations Act.	~				
<b>Threatened Species Development</b>	~				
<b>Aquaculture Development-</b> referred to in clause 13 of SEPP62					
⇒ Class 1 Aquaculture Development.		~			
⇒ Class 2 Aquaculture Development.	~				
<b>Note.</b> Class 3 Aquaculture Development constitutes designated development.					
<b>All Other Types of Development</b>					
<b>Request for Review of Determination-</b> (s82A)					
⇒ where making minor amendments to the original proposal					~
⇒ where making amendments (other than minor amendments) to the original proposal.	As per category for the amended dev. proposal				
<b>Application for Modification of a development consent-</b> (Section 96 of the EP&A Act)					
where making minor amendments to the original proposal S96 (1) and S 96(1a)	As determined by Assessing Officer or the DAP				
where making amendments (other than minor amendments) to the original proposal S96(2) OR S96(AA)	As per category for the amended dev. proposal				

Development Type	Category				
	A	B	C	D	E
Change of use					
No new building works or minor internal/ external building works with no considered off site impacts					~
Change of Use (with off-site impacts expected)	As per Category for the new use				
Existing Use Rights (with off-site impacts expected)		~			
Existing Use Rights (No off-site impacts expected)					~
Internal works to any building					~
<i>Protection of the Environment Operations Act 1997</i> Scheduled activities		~			
SEPP55 – Remediation of Land – Category 1 remediation work (refer to clause 9 of SEPP55 for details of what constitutes a class 1 remediation work)		~			
Extend hours of operation-					
so as to operate outside any of the following times- ⇒ between 7.00 am to 5.00 pm Monday to Friday. ⇒ between 8.00 am to 12 noon Weekends and Public Holidays.				~	
so as to operate at any time- ⇒ between 10.00 pm to 7.00 am Monday to Friday. ⇒ between 2.00 pm to 8.00 am Weekends and Public Holidays.		~			
All development- ⇒ 3 storeys or greater, or ⇒ where the height of building exceeds 10 metres above existing ground level, or ⇒ Development with a value of work exceeding \$20M.		~			
Demolition of a building (excluding heritage items)				~	
Demolition of ancillary structures or farm buildings					~
Agriculture-					
⇒ Extensive agriculture ⇒ Intensive plant agriculture				~	
⇒ Intensive livestock agriculture		~			
Animal boarding or training establishments		~			
Farm buildings					~

Development Type	Category				
	A	B	C	D	E
Keeping of certain animals (non-commercial)					
In any Zone ⇒ >10 Dogs ⇒ >20 fowl and poultry ⇒ keeping of rooster(s)				~	
Residential Accommodation-					
⇒ Development not specified above or considered minor alterations and additions to residential accommodation, or ancillary structures, with minimal impact. This section includes single story dwellings with no DCP variations					~
⇒ Requested variation to the DCP: Building Line Setback, Building Height Plane or Floor Space Ratio/ Site Coverage. ⇒ Single Dwelling houses: that are two storeys or more and located on R1, RU5 zoned land. ⇒ Dual occupancy: that area located on R1, R5 & RU5 zoned land. ⇒ Secondary dwellings ⇒ Shop top housing: where no alterations to commercial floor space ⇒ ancillary structures: two storeys or more OR within 900mm of the property boundary for R1 & RU5 zoned land.(note: for structures in other zones see DCP setback) ⇒ including significant additions to any of the above			~		
⇒ Residential flat buildings (<20 dwellings) ⇒ Multi dwelling housing (<20 dwellings) ⇒ Rural landsharing communities (SEPP15)(<20 dwellings) ⇒ Attached dwellings ⇒ Boarding houses ⇒ Group homes ⇒ Hostels ⇒ Seniors housing (<20 dwellings) ⇒ including significant additions to any of the above (As determined by Assessing Officer, Management or the DAP)			~		
⇒ Residential flat buildings (20 or more dwellings) ⇒ Multi dwelling housing (20 or more dwellings) ⇒ Rural landsharing communities (SEPP15)(20 or more dwellings) ⇒ Seniors housing (20 or more dwellings) including significant additions to any of the above (As determined by Assessing Officer Management or the DAP)		~			

Development Type	Category				
	A	B	C	D	E
Heritage items or buildings within a Conservation Area-					
⇒ Minor works					~
⇒ Minor alterations or additions to a building in a heritage conservation area				~	
⇒ Demolition of a heritage item ⇒ Work that will materially affect the significance of a heritage item ⇒ Conservation incentive for development not otherwise supported by RVLEP (clause 5.10(10))		~			
Commercial premises-					
⇒ Roadside stalls					~
⇒ Office premises ⇒ Business premises ⇒ Retail premises – § including additions (As determined by Assessing Officer, Management or the DAP) § may incorporate Shop top housing				~	
⇒ Development not specified above or considered minor alterations and additions to a Commercial Premises, or ancillary structures, with minimal impact					~
Industrial retail outlets Wholesale supplies Service stations Veterinary hospitals				~	
Amusement centres Entertainment facilities Registered clubs Pubs Function centres Highway service centres		~			
Sex service premises Home occupation (sex services)		~			
Restricted premises-					
⇒ within existing commercial premises, and ⇒ occupying floor area < 100m <sup>2</sup> , and ⇒ displays not visible from street				~	
⇒ Other occurrences		~			

Development Type	Category				
	A	B	C	D	E
Tourist and visitor accommodation-					
⇒ Farm stay accommodation ⇒ Bed and breakfast accommodation ⇒ including additions that alter the occupant numbers or increase the size of buildings foot print.				~	
⇒ Backpackers' accommodation ⇒ Undefined types of tourist and visitor accommodation Hotel or motel accommodation ⇒ Serviced apartments ⇒ Including additions that alter the occupant numbers or increase the size of buildings foot print.		~			
Eco-tourist Facilities		~			
Caravan Parks Manufactured Home Estates Camping grounds		~			
Industrial development-					
⇒ light industry ⇒ general industry				~	
⇒ heavy industry		~			
Rural Industry-					
⇒ with gross floor area <500m <sup>2</sup>				~	
⇒ with gross floor area more than 500m <sup>2</sup>		~			
Boat building and repair facilities Vehicle body repair workshops Vehicle repair stations Storage premises Depots Warehouse or distribution centres				~	
Heavy industrial storage establishments Extractive industries		~			



Development Type	Category				
	A	B	C	D	E
Infrastructure – Water and Waste					
⇒ Water reticulation systems (where a large part of the infrastructure will be located below the ground)				~	
⇒ Water reticulation systems (where a large part of the infrastructure will be located above the ground) ⇒ Sewage systems ⇒ Waste or resource management facilities ⇒ Water storage facilities ⇒ Water treatment facilities		~			
Electricity generating works-					
⇒ capacity to generate < 10,000Kw				~	
⇒ capacity to generate > 10,000Kw		~			
Infrastructure – Transport					
⇒ Jetties ⇒ Moorings				~	
⇒ Airstrips ⇒ Helipads ⇒ Boat launching ramps ⇒ Car parks ⇒ Passenger transport facilities ⇒ Transport depots ⇒ Truck depots ⇒ Wharf or boating facilities ⇒ Mooring pens ⇒ Charter and tourism boating facilities ⇒ Air transport facilities ⇒ Freight transport facilities ⇒ Port facilities ⇒ Marinas		~			

Development Type	Category				
	A	B	C	D	E
Community infrastructure-					
⇒ Information and education facilities				~	
⇒ Emergency services facilities		~			
⇒ Child care centres					
⇒ Community facilities					
⇒ Places of public worship					
⇒ Public administration buildings					
⇒ Research stations					
⇒ Respite day care centres					
⇒ Cemeteries (other than for private burials)					
⇒ Mortuaries					
⇒ Crematoria					
⇒ Correctional centres					
⇒ Industrial training facilities					
⇒ Education establishments					
Events (small short term) – (such as small festivals, markets, etc. )				~	
Events (larger events)		~			
Health services facilities-					
⇒ Health consulting rooms		~			
⇒ Medical centres					
⇒ Other health services facilities					
⇒ Hospitals					
Recreation-					
⇒ Environmental facilities				~	
⇒ Recreation areas					
⇒ Water recreation structures					
⇒ Recreation facilities (indoor)				~	
⇒ Recreation facilities (outdoor)					
⇒ Recreation facilities (major)		~			
Miscellaneous					
⇒ Environmental protection works					~
⇒ Cemeteries for private burials				~	
⇒ Exhibition homes					
⇒ Exhibition villages (consisting of <6 dwellings)					
⇒ Exhibition villages (consisting of more than 6 dwellings)		~			
⇒ Flood mitigation works					
⇒ Open cut mining		~			

Development Type	Category				
	A	B	C	D	E
Subdivision of land-					
⇒ No new lots to be created ⇒ Strata ⇒ Community Title					~
⇒ Containing <10 lots				~	
⇒ Containing 10 lots or more		~			
Signage-					
⇒ with a display area for each sign up to 10m <sup>2</sup> . Total signage area to building; maximum area of 20m <sup>2</sup>					~
⇒ with a display area >10m <sup>2</sup> ⇒ flashing or animated signs ⇒ signs with a height >8 metres above existing ground level				~	

### J.3 Published Notification Procedures

#### Objectives

- (1) to specify the minimum requirements for a published notice.

#### Controls

##### Form of published notice

- (1) The minimum specifications for a published notice are provided in clause 89 of the *Environmental Planning and Assessment Regulation 2000*. It provides that such a notice must be published in a local newspaper and contain the following information-
  - ∅ description of the land (including the address)
  - ∅ name of the applicant
  - ∅ name of the consent authority
  - ∅ description of the development proposal
  - ∅ a statement that the proposal may be inspected at the principal offices of the consent authority during ordinary office hours during the exhibition period
  - ∅ a statement that any person may make written submissions, in relation to the development proposal, during the exhibition period
  - ∅ the dates of the exhibition period (commencing the day after the day on which the published notice first appears in a newspaper)
- (2) Where the application is for *integrated development* the following additional information is stated-
  - ∅ a statement that the development is integrated development.
  - ∅ the approvals that are required under integrated development.
  - ∅ the relevant approval bodies for the required approvals.

- (3) Where the application is *threatened species development*-  
Ø a statement that the development is threatened species development.

### Exhibition period

- (4) The exhibition period shall commence on the following day that the published notice first appears in a newspaper.
- (5) The minimum exhibition periods are described in calendar days.
- (6) The exhibition period should be extended to accommodate public holidays, or days where the Consent Authority's principal office is closed, but excluding weekends.
- (7) The exhibition period may be increased, or extended, at Council's discretion.

### Cost of advertising

- (8) The full cost of publishing notices and erecting display notices may be recouped by the Consent Authority pursuant to clause 252 of the Regulation 2000.
- (9) A fee shall be levied for advertising and displaying applications. Such a fee should be levied at lodgement of the application.
- (10) The applicant may request a refund of unspent advertising fees where the levied advertising fees exceed the cost to publish notices, and/or erect display notices. Such requests may be made following determination of the application and must be in writing.
- (11) Additional advertising fees may be levied on an application for each additional published notice required.

## J.4 Written Notification Procedures

### Objectives

- (1) to specify the minimum requirements for a formal written notices.
- (2) to enable the Consent Authority to determine when formal written notification should be increased or dispensed with.
- (2) to provide for informal notification where formal notification is not required or has been waived.

### Controls

#### Who will be given written notification

- (1) Where Table J.1 requires written notification (Category "A", "B" or "C"), a formal written notice shall be given to the adjoining land owners.
- (2) Subject to subclause (6) below, notification can be increased or dispensed with depending on the proposal and its anticipated impact on adjoining properties. The Assessing Officer, Management or the DAP will determine the extent of notification.
- (3) Clause 88(2)(c) of the Regulation 2000 provides that if land is owned or occupied by more than one person, a written notice to one owner or one occupier is taken to be a written notice to all the owners and occupiers of that land.

**(4) Excluded Development (Category “E”)**

An Informal written notice may be made to adjoining land owner’s, or the occupants, where:

- (a) formal written notification is not required by this DCP, and
- (b) the Consent Authority believes that the development may generate community interest.

**(5) An informal written notice is for advisement purposes only, with submissions received to be considered at the discretion of the Consent Authority.**

**Note.** The types of development that may be informally notified include - single story dwellings, out buildings, pools, additions to commercial /industrial development.

**(6) Notification to affected persons**

In many instances development proposals may have the potential to impact upon properties beyond those of adjoining lands, or the impacts may be contained within the development’s property boundaries.

In determining whether additional affected persons should be notified, or that notification should be decreased or waived, Council needs to examine the submitted plans and consider on merits such issues as:

- Ø the views to, and the view from, surrounding land.
- Ø potential overshadowing of surrounding land.
- Ø privacy of surrounding land.
- Ø potential noise transmission to the surrounding land.
- Ø the likely visual impact of the proposed building in relation to the streetscape.
- Ø the scale or bulk of the proposal.
- Ø proposed hours of use.
- Ø potential light spillage or reflection.
- Ø potential traffic generation.
- Ø means of vehicle access to and provision of parking and loading on the application site.
- Ø potential social impacts on the community.

**(7) Notification may be extended to include the occupants of affected properties, including those of adjoining lands, where it is suspected they are not occupied by their owner.**

**(8) Written notification to public authorities**

Written notification of development will be made to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the Consent Authority, may have an interest in the determination of the application.

**Form of written notification**

- (9) Written notification of development will be made in the form of a letter.
- (10) As a minimum standard, letters to property owners will be posted to the service address provided within Council’s Corporate Information System at the date the notice is issued.
- (11) Where the occupants of identified properties are to be notified, the notice need only be addressed “To the occupant”.

- (12) The minimum specifications for a written notice are provided in clause 89 of the *Environmental Planning and Assessment Regulation 2000*. It provides that a notice must contain the following information:
- ∅ description of the land (including the address)
  - ∅ name of the applicant
  - ∅ name of the consent authority
  - ∅ description of the development proposal
  - ∅ a statement that the proposal may be inspected at the principal offices of the consent authority during ordinary office hours during the exhibition period
  - ∅ a statement that any person may make written submissions, in relation to the development proposal, during the exhibition period
  - ∅ the dates of the exhibition period
- (13) Where the application is for *integrated development* the following additional information is stated-
- ∅ a statement that the development is integrated development.
  - ∅ the approvals that are required under integrated development.
  - ∅ the relevant approval bodies for the required approvals.
- (14) Where the application is *threatened species development*-
- ∅ a statement that the development is threatened species development.

### **Circumstance where a notice is to be displayed on site**

- (15) For development that is considered to have wider off site impacts and the DAP decides it is in the public interest, a copy of the written notice shall be displayed on the development site (a **display notice**).
- (16) A display notice must be located in a position that is visible to the public. It must also be of such dimensions to reasonable display the notice so that it can be clearly read.

## **J.5 Dictionary**

### **Objectives**

- (1) to define terms used in the Advertising and Notification Part of this DCP.

### **Controls**

- (1) The introduction to *Richmond Valley DCP 2015* contains common definitions, however, the following terms are relevant to this Chapter-

**Adjoining land** means lands immediately adjoining the proposed development site, or that are separated from such land only by a pathway, driveway, unformed road or similar thoroughfare.

**Affected person** means a person:

- (a) who owns or occupies land in the vicinity of a development proposal, and whose enjoyment of that land may be detrimentally affected by the proposed development; or
- (b) who owns or occupies adjoining land.

and may include properties in an adjoining Local Government Area.

**Note.** Affected persons are identified using the merit considerations identified within Chapter J.4(6).

**Display notice** means a copy of the Published Notice (or Written Notice where a Published Notice is not required) is displayed on the proposed development site and at the principal offices of the consent authority and Council (where not the consent authority) during the exhibition period.

**Local newspaper** for the purposes of this Chapter means a newspaper with a circulation at least once weekly in the locality of the development proposal.

**Note.** In the main such notices will appear in The Richmond River Express Examiner which has a weekly distribution throughout the Richmond Valley Council area.

**Nominated integrated development** has the same means as clause 5(1)(b) of the Regulation 2000.

**Note.** Clause 5(1)(b) of the Regulation 2000 defines **nominated integrated development** as being integrated development (not being State significant development, threatened species development or Class 1 aquaculture development) that requires an approval (within the meaning of section 90A of EP&A Act) under a provision (specified in section 91 of EP&A Act) of any of the following Acts:

- (i) the *Heritage Act 1977*,
- (ii) the *Water Management Act 2000*,
- (iii) the *Protection of the Environment Act 1997*.

**Other Advertised Development** has the same meaning as provided in clause 5(2) to the Regulation 2000. It includes Advertised Development (other than State significant development) and additional specified development by this DCP.

**Owner** means:

- (a) the person or persons who appear on Council's records to be the owner(s) of the land at the date of notification.
- (b) in the case of land that is subject of a strata scheme under the *Strata Titles (Freehold) Act 1973*, or a leasehold strata scheme under the *Strata Titles (Leasehold) Act 1986*, the owners corporation.

**Published notice** (referred to in clause 87 of the Regulation 2000) means to cause a notice of the application to be published in a local newspaper.

**Threatened Species Development** is referred to in clause 5(1) of the Regulation 2000, and includes any development (other than State significant advertised development or designated development) requiring a Species Impact Statement to be lodged under section 78A(8)(b) of EP&A Act.

**Note.** Section 78A(8)(b) requires a Species Impact Statement to accompany a development application where the land, or part of the land, is critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats (see "7 part test" under section 5A of EP&A Act).

**Written notice** (referred to in clause 87 of the Regulation 2000) means to give notice in writing of an application. Council can undertake Formal or Informal Written Notification.