



***DEVELOPMENT CONTROL PLAN
No. 35***

***COMMUNITY CONSULTATION
FOR LAND USE MANAGEMENT
AND
MANUAL OF PROCEDURES***

(ADOPTED September 2003)

**DEVELOPMENT CONTROL PLAN No. 35 –
COMMUNITY CONSULTATION FOR LAND USE MANAGEMENT AND MANUAL OF
PROCEDURES**

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SECTION 1 – INTRODUCTION

This Policy document outlines the procedures for public consultation undertaken in relation to all of the major development/land management tasks performed by the Council. These procedures are a combination of statutory requirements of the Environmental Planning and Assessment Act 1979, Local Government Act 1993 and the Council's practice which applies in addition to those statutory requirements.

The major requirements of the legislation are described and a summary is provided for those tasks that are most commonly performed. Where there is any perceived inconsistency between the Policy and the statutes, the statute shall prevail.

The most common matters that are referred for the comment of the community, are development applications. The Policy deals with these, and the other major classes of matters comprising the preparation of Local Environmental Plans, Development Control Plans, Local Approvals Policies and Plans of Management that are referred for consultation with the community.

The definitions provide a more detailed and explicit explanation of some of the most critical terms, and should be used for reference purposes where clarification of a consultation procedure is needed.

The details of how a particular procedure is to be implemented may be subject to change where operational requirements dictate, provided that the intent and the effect of the consultation process is maintained.

1.1 NAME

This plan is called Blue Mountains City Council Development Control Plan (DCP) No. 35 Community Consultation for Land Use Management and Manual of Procedures.

1.2 COMMENCEMENT

This plan was adopted by Blue Mountains City Council on 30 September 2003. and commences on 1 November 2003.

1.3 AIMS AND OBJECTIVES:

The aims and objectives of this Plan are:

1. To ensure that the Community is consulted and afforded appropriate opportunities to comment on proposed development and related policy depending on its impact and significance.

The degree of consultation and opportunity to comment is detailed in this Development Control Plan for Community Consultation for Land Use Management and Manual of Procedures adopted by Council.

2. To ensure a practical and consistent approach to community consultation and have Council recognised as receptive to Community comment.
3. To fulfill the statutory responsibilities for community consultation as required by the provisions of the Environmental Planning and Assessment Act, 1979 and Local Government Act, 1993.
4. To implement community consultation in an efficient and effective manner which accomplishes the objectives with minimal delays to the processing of applications and improves the quality of decisions taking into account the needs of the client groups.

1.4 DEFINITIONS

For the purposes of this document, the words below will adopt the following meanings:-

"Adjoining land"

means land which abuts or has a common boundary with or is directly opposite an application site or is separated from it only by a pathway, driveway or similar thoroughfare.

"Advertised Development"

means development, other than designated development, that is identified as Advertised Development by:

1. Environmental Planning and Assessment Regulations, being:
 - a) State Significant Development referred to in Section 76A(7)(b) or (d) of the Act;
 - b) Nominated Integrated Development that is not State Significant Development but referred to in Section 91 of the Environmental Planning and Assessment Act;
2. An Environmental Planning Instrument that nominates classes of development as Advertised Development being:
 - a) Clause 41 of LEP 4;
 - b) Clause 31 of LEP 1991; and
 - c) Development nominated as Advertised Development in a State Planning Policy
(eg SEPP 33 – Hazardous and Offensive Development, SEPP 37 – Continued Mines and Extractive Industries)

(Note: Advertised Development under Council's LEPs are summarised in Appendix 1 to this document)
3. A Development Control Plan.

"Affected"

Any property, the enjoyment of which may be detrimentally influenced by the proposed development as determined by the Council. This will generally be adjoining owners but the need for notification and location of property owners notified will be determined by the potential for detrimental impact. (This may include properties not directly abutting the proposed development but which will be visually affected or properties along a road where traffic impact is likely to be significant).

Whether land may be detrimentally affected is to be determined by taking into consideration the effect that a proposal would have upon the following:

- views to and views from the land
- overshadowing
- privacy
- noise
- the quality and character of the adjoining streetscape
- light spillage

“Community Land”

means land that is classified as community land under the Local Government Act 1993. Community Land would ordinarily be land such as a public park which is reserved for use by the general public or the community. Community Land is required to be used and managed according to a Plan of Management applying to that land.

"Designated Development"

means any class of development that is declared pursuant to section 77A of the Environmental Planning and Assessment Act 1979. Schedule 3 of the EP&A Regulation 2000, specifies those developments which are designated.

“Development”

means:

- a) the use of land; and
- b) the subdivision of land; and
- c) the erection of a building; and
- d) the carrying out of work; and
- e) the demolition of a building or work; and
- f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument;

but does not include any development of a class or description prescribed by the regulations for the purpose of this definition.

"Notify"

The sending out of letters and plan information to affected owners, or in the case of 'advertised development', 'integrated development' and 'designated development', to all owners or occupiers of adjoining land, and where practicable, to such other persons as appear to own or occupy land, the use and enjoyment of which, in the opinion of the consent authority, may be detrimentally affected if that development is carried out, and to such public authorities as may have an interest in the determination of that development application.

Note: Where land is a lot within the Strata Titles Act, Strata Titles Leasehold Act, or Community Development Act then advice to the Body Corporate shall be deemed to be advice to the owners within.

Where land is owned by more than one owner, advice to any one owner is sufficient.

For building related development in villages (Mt Wilson, Mt Irvine and Mt Tomah) zoned 'Rural Conservation', notice shall also be forwarded to the representative community association where such association exists and Council is advised of the contact address.

Where the area of affectation is large then advertising in the local press shall occur instead of notification for other than the properties in the immediate vicinity.

“Operational Land”

means land that is classified as operational land under the Local Government Act 1993. Operational land would ordinarily comprise Council owned land held as a temporary asset or as an investment, land which facilitates the carrying out by Council of its functions or land which may not be open to the general public, such as a works depot or a council garage.

“Planning Areas”

refers to each one of the five (5) geographic areas within the Blue Mountains LGA identified by Council for community and land use planning purposes. The five planning areas and the townships therein are

Planning Area 1: Blackheath, Megalong Valley, Mt Victoria, Bell, Mt Tomah, Mt Irvine, Mt Wilson;

Planning Area 2: Wentworth Falls, Leura, Katoomba, Medlow Bath;

Planning Area 3: Woodford, Linden, Hazelbrook, Lawson, Bullaburra;

Planning Area 4: Valley Heights, Springwood, Yellow Rock, Hawkesbury Heights, Winmalee, Faulconbridge;

Planning Area 5: Lapstone, Glenbrook, Mt Riverview, Blaxland, Warrimoo.

SECTION 2 – DEVELOPMENT APPLICATIONS

2.1 CATEGORIES OF DEVELOPMENT APPLICATIONS

The erection of structures, the demolition of buildings, the use of land, excavation and filling of land and the carrying out of work are all activities which may require the consent or approval of the Council. The need for applications for these activities, is determined in accordance with development and building regulations, at both the local and state levels.

The Environmental Planning and Assessment Act 1979, (EP&A Act) prescribes requirements for public consultation of some applications under certain circumstances. This policy aims to widen the range of consultation than that set in statute and provide a logical relationship between the timing of the community input and the determination of development applications.

In view of the complexity of many of the consultation requirements, this policy has widened some procedures/explanations, in order to achieve a more simplified and logical approach.

Different consultation requirements are specified for different classes of development applications. Council is not required to advertise all development applications, but chooses to advertise and/or notify most applications that are subject to merit based assessment to comply with either the prescriptive provisions of the Environmental Planning and Assessment Act, or to obtain an informed view from local residents. Where a development is not required to be advertised neighbour notification may be carried out to ensure that the views of those people who own land next to the development, can be taken into account when determining an application. The criteria outlined in the definition of 'affected' are those which are generally relevant in determining how extensive neighbour notification will be in these instances.

Community consultation beyond neighbour notification to 'affected' owners, is prescribed by the EP&A Act for three classes of development applications: 'advertised development'; designated development and State Significant Development. Council has little discretion in relation to the exercise of these powers. These categories are detailed in the following sections.

2.1.1 EXEMPT AND COMPLYING DEVELOPMENT

Exempt Development relates generally to minor work that does not require the approval of Council. As such proposals are not advertised or notified. Examples of Exempt Development include small garden sheds, gazebos, pergolas and the like.

Complying Development involves minor types of development that do not require merit assessment but rather compliance with technical and non-discretionary standards. Applications for this class of development will not be advertised or notified prior to determination. Adjoining property owners will be notified by the Principal Certifying Authority (who would be Council or a private accredited certifier) after a Complying Development Certificate has been issued. Complying Development includes certain additions to dwellings and residential dwellings in nominated areas.

Council's Development Control Plan No 33 lists those developments that are classified as either Exempt or Complying Development within the Blue Mountains Local Government area.

2.1.2 LOCAL DEVELOPMENT

The vast majority of applications received by Council are classified as Local Development. Local Development can be further divided into a number of sub-categories:

- i. 'General' Local Development;
- ii. Local Advertised Development (not being State Significant Development); and
- iii. Designated Development.

2.1.2.1 'General' Local Development (being Local Development that is neither Advertised Development, Integrated Development or Designated Development).

'General' Local Development is that Local Development that is not nominated as Advertised Development by the Environmental Planning and Assessment Regulations (ie not Nominated Integrated Development or State Significant Development) or an Environmental Planning Instrument (ie Clause 41 of LEP 4, Clause 31 of LEP 1991 or by a State Planning Policy).

There are no statutory requirements for Council to formally advertise this class of development, however Council chooses to notify the owners of adjoining land (see Section 1 for definition of 'adjoining') to obtain their view in relation to the proposal, unless:

- i. The application is for internal works in an existing building and there will be no change or external impact as a result of that application; or
- ii. In the opinion of Council it is considered that the enjoyment of the adjoining land will not be detrimentally affected (see Section 1 for definitions of 'affected').

While 'General' Local Development is not required to be advertised in a local newspaper under the provisions of the EPA Act and Regulations or under Council's Local Environmental Plans, there will be circumstances where such development does warrant advertising in the local newspaper.

This is particularly the case where the application is for a significant development that is not expected to occur with any frequency in that land use zone.

As a general guide, a non residential use or a residential development of other than traditional detached housing in a residential neighbourhood, eg. a townhouse or villa type development in a residential zoned area, will be advertised in the local newspaper. Significant proposals for items of major heritage significance will also be advertised, including demolition of heritage items not required to be notified under LEP 4.

Development Applications for subdivision (which are normally 'General' Local Development), other than boundary adjustments and road widening, will be notified to adjoining owners and where more than 5 lots are proposed will also be advertised in the local paper. Strata applications and adjustment of boundaries will not be notified.

The notice to owners will be forwarded to the official address shown on Council's ownership records. If a notification letter has been forwarded to that official address, and that notification is returned, Council is considered to have fulfilled its obligations.

Information to be contained in a written notice:-

The notice to owners, (and to representative community associations for the RC villages) and the newspaper (where applicable) shall include:-

- i. a statement that an application (and type of application) has been lodged;
- ii. a description of the land (including the address) on which the development is proposed to be carried out;
- iii. a description of the proposal, which, in the case of written notice to owners, should include a plan showing the external height and configuration in relation to the site, where a new building is proposed;
- iv. the name of the applicant and of the Council (or the consent authority if it is other than the Council) and a reference number to quote in reply;
- v. advice that the application may be inspected during ordinary office hours, at the Katoomba office of the Council and where appropriate, other venues, and the time period available for inspection;

- vi. a statement to the effect that any person may make a written submission during the period specified;
- vii. the dates of the period specified under paragraph (vi);

A period of 14 days will generally apply in which to make submissions, but this may be extended to 30 days for proposals which are significant or complex.

A 21 day period for submissions will also generally apply to all applications where the notice to adjoining owners is sent during the Christmas – New Year Holiday period extending from 20 December until 5 January.

2.1.2.2 Local Advertised Development (not being State Significant Development)

Local Advertised Development comprises development that is identified as Advertised Development by:

- i. The Environmental Planning and Assessment Regulations as Nominated Integrated Development; and
- ii. An Environmental Planning Instrument that nominates classes of development as Advertised Development being:
 - a. Clause 41 of LEP 4;
 - b. Clause 31 of LEP 1991; and
 - c. Development nominated as Advertised Development in a State Environmental Planning Policy.

An example of local Advertised Development includes a child care centre in a residential zone under LEP 4.

Local Advertised Development is required to be advertised in a local newspaper and written notification given to:

- i. Persons who appear to Council to own or occupy adjoining land; and
- ii. Those public authorities that Council considers may have an interest in the determination of the application.

Clause 41 of LEP 4 and Clause 31 of LEP 1991 also require that the provisions of the Environmental Planning & Assessment Act apply to, and in respect of development to which those clauses apply. These provisions require, amongst other things, that a Notice be displayed on the land to which the application relates.

Information to be contained in a written notice and a published notice:

- i) A written or published notice of a development application must contain (as a minimum) the following information:
 - a) a description of the land (including the address) on which the development is proposed to be carried out;
 - b) the name of the applicant and the name of the consent authority;
 - c) a description of the proposed development;
 - d) a statement that the application and the documents accompanying that application may be inspected for a period specified at the Katoomba office during the Council's ordinary office hours and where appropriate, other venues and;

- e) a statement that any person during the period specified under paragraph (d) may make a written submission in relation to the development application to the Council.
- ii) In the case of a development application for nominated integrated development, the following additional information will be included:
 - a. a statement that the development is integrated development;
 - b. the approvals that are required and the relevant approval bodies for those approvals; and;
 - c. in the case of development that is threatened species development, a statement that the development is threatened species development.

A period of 30 days for submissions will apply from the date on which the notice was first published in the newspaper.

Information to be contained in a notice displayed on the land.

The notice for a development application for advertised development under Clause 41 of LEP 4 and Clause 31 of LEP 1991:

- i) must be exhibited on the land to which the development application relates;
- ii) must be displayed on a signpost or board;
- iii) must be clear and legible;
- iv) must be headed in capital letters and bold type “**DEVELOPMENT PROPOSAL**”;
- v) must contain under that heading the following matters:
 - a) a statement that the development application has been lodged,
 - b) the name of the applicant,
 - c) a brief description of the development application,
 - d) notice that the development application and relevant documentation may be inspected at the places, on the dates and during the times specified in the notice, being the same places, dates and times specified in the written notice referred to above;
- vi) must, if practicable, be capable of being read from a public place.

There are certain circumstances in which notice requirements may be dispensed with as follows:

- a. a development application is amended, or substituted, or withdrawn and later replaced before it has been determined by Council; and
- b. the Council has complied with the provision of the Act and Regulations regarding advertising in relation to the original application; and
- c. the Council is of the opinion that the amended, substituted or later application differs only in minor respects from the original application. The Council may decide to dispense with further compliance with those provisions in relation to the amended, substituted or later application.

2.1.2.3 Designated Development

Applications for development which is designated by Schedule 3 of the Environmental Planning and Assessment Regulation must be notified in writing, to all owners and occupiers of land adjoining the development or of land while not adjoining that could be adversely affected by the development. A

sign must be placed on the land, and a notice placed in the local newspaper, in accordance with requirements set out in S. 79 of the Act and Clauses 77-81 of the EP&A Regulation. Copies of applications for designated development must also be forwarded to the Department of Infrastructure, Planning and Natural Resources, for public exhibition.

A period of 30 days will apply for submissions.

Information to be contained in a written notice, a published notice and a notice displayed on the land.

Specific provisions apply under the Environmental Planning & Assessment Act and Regulations concerning the form and content of each of the types of notices as required. Please refer to Section 79 of the Act and Clauses 77-81 of the Regulations.

2.1.3 STATE SIGNIFICANT DEVELOPMENT

State Significant Development is that development which is:

- i. Declared by a State Environmental Planning Policy or Regional Plan to be State Significant Development; or
- ii. Declared by the Minister, by notice in the Government Gazette to be State Significant Development; or
- iii. Directed by the Minister to be referred for determination under Section 88A or 89 of the EPA Act.

This category of development generally includes large scale proposals or those which are major employment generators.

The Minister is the consent authority and advertising is generally the responsibility of the Department of Infrastructure, Planning and Natural Resources.

The provisions of the Environmental Planning and Assessment Act relating to the advertising of State Significant Development are similar for those applying to Designated Development.

Written notice of the development is required to be given to:

- i. Such persons who appear to own or occupy land adjoining the land the subject of the development;
- ii. If practicable, to such other persons as appear to own or occupy land, the enjoyment of which may be detrimentally affected by the proposed development; and
- iii. Such public authorities as, in the opinion of the consent authority, may have an interest in the determination of the application.

Notice must also be published in the local newspaper and a sign exhibited on the land.

The period for submissions is 30 days after notice of the proposed development was first published in the local newspaper.

Information to be contained in a written notice, a published notice and a notice displayed on the land.

The details concerning the form and content of each of the types of notices is contained within Section 79A of the Act and Clauses 82-85 of the Regulations.

2.1.4 REVIEW OF DETERMINATION

Council will not notify or advertise an application seeking a review of determination under Section 82A of the Act, except where an applicant proposes to make amendments to the development, and such amendments are, in the opinion of Council, likely to increase the environmental impacts of the development.

In these cases the application will be notified to any person who made a submission in respect of the original application, and to the owners of land, in the opinion of Council, could suffer increased adverse impacts as a result of the proposed amendment.

A period of 14 days will generally apply for submissions.

2.1.5 MODIFICATION OF CONSENT

2.1.5.1 **Modifications Involving a Minor Error, Misdescription or Miscalculation – Section 96(1).**

No notification or advertising required.

2.1.5.2 **Modifications Involving Minimal Environmental Impact – Section 96(1A).**

Generally, no notification or advertising required unless the consent was originally issued by the Court, in which case a period of 14 days will apply.

2.1.5.3 **Other Modifications – Section 96(2).**

i) General Local Development

Notice of the proposed modification will be forwarded to:

- any persons who made a submission in respect of the original application, and
- to the owners of land, in the opinion of Council, could suffer increased adverse impacts as a result of the proposed amendment.

A period of 14 days will generally apply for submissions however this may be reduced to 10 days for minor modifications.

ii) Local Advertised Development (Not being Designated Development)

Written notice of the proposed modification must be:

- published in a local paper;
- forwarded to any persons who made a submission in respect of the original application, and
- forwarded to the owners of land, who in the opinion of Council, could suffer increased adverse impacts as a result of the proposed amendment.

The information contained in the written notice shall include:

- a brief description of the development consent, the land to which it relates and the modification sought; and
- a statement that written submissions concerning the proposed modification may be made to the Council within the time period specified.

A period of 14 days will generally apply for submissions.

iii) Designated Development

Written notice of the proposed modification must be:

- published in a local paper;
- forwarded to any persons who made a submission in respect of the original application, and
- forwarded to the owners of land, who in the opinion of Council, could suffer increased adverse impacts as a result of the proposed amendment.

The information contained in the written notice shall be in accordance with the relevant provisions of the Environmental Planning & Assessment Act and Regulations.

2.1.6 REVOCATION OF A CONSENT UNDER SECTION 96A

Under Section 96A of the Environmental Planning and Assessment Act, a development consent can in certain circumstances be revoked or modified by the Director General of Infrastructure, Planning and Natural Resources.

In such cases, Council is required to notify any person who it is considered, would be adversely affected by the revocation, prior to making any such decision. The time period for notification will be determined on the basis of the revocation being considered.

2.1.7 SUMMARY OF TIME PERIOD FOR SUBMISSIONS.

The following is a summary of the time periods for notifying/advertising Development Applications.

TYPE OF DEVELOPMENT	TIME PERIOD ALLOWED
<p>Development Applications:</p> <p>General Local Development (not being Advertised Development)</p> <p>“Advertised Development”</p> <p>“Designated Development”</p>	<p>14 days generally; may be extended to 30 days for significant or complex proposals</p> <p>30 days from the date the notice was first published in the newspaper</p> <p>30 days from the date the notice was first published in the newspaper</p>
<p>Review of Determination</p>	<p>Generally not required</p> <p>14 days where necessary</p>
<p>Modification of development consents:</p> <p>Minor error, misdescription or miscalculation – (S96(1))</p> <p>Minimal environmental impact – (S96(1A) and S96AA)</p>	<p>None required</p> <p>Generally none required unless Court issued consent</p> <p>14 days required where necessary</p>

Other Modifications – (S96(2) and S96AA): Local Development not being “Advertised Development”	14 days generally; may be reduced to 10 days for minor modifications
“Advertised Development”	14 days from the date the notice was first published in the newsletter
“Designated Development”	14 days from the date the notice was first published in the newsletter

2.1.8 TIMING AND LOCATION OF NEWSPAPER ADVERTISING

Where required, the advertisement will be placed in the Council public notices section of the local newspaper, no later than the commencement of the period for submissions.

2.2 INSPECTION AND COPYING OF APPLICATIONS

Any person may inspect, free of charge, the documents that comprise the development application and after determination, the application and the notice of determination. Subject to the provisions of Part 2 of Chapter 4 of the Local Government Act, 1993, a person may inspect a development application and any accompanying information and make extracts or copies of them subject to payment of reasonable costs.

All Development Applications will generally be available for inspection by interested persons at Council’s Katoomba Administrative offices. Development applications of significance which are proposed for land from Bullaburra to the east will should also be available for inspection at alternative venues depending on the relevant Planning Area affected by the proposal, being:

- Planning Area 3 - Lawson library;
- Planning Area 4 - Springwood Office;
- Planning Area 5 - Blaxland library.

For proposals of particular public interest and where the documentation is extensive, additional copies will also be provided for viewing at Katoomba library (Planning Areas 1 to 3) or Springwood library (Planning Areas 4 & 5).

Procedural Note:

For applications that are not sent to Lawson, Springwood or Blaxland as a matter of course, the applications may be made available for inspection at these locations upon request with one business day’s notice.

Copies of Environmental Impact Statements which accompany designated developments can be made available for purchase at a price not exceeding \$25 per copy.

Staff assisting persons viewing plans can not offer comment other than interpretation assistance. The person inspecting the plans should make their own assessment of the effect of the development.

Copyright in documents forming part of or accompanying development applications – applicant’s indemnification:

Upon a development application being made under section 78A of the Act, the applicant, not being entitled to copyright, is taken to have indemnified all persons using the development application and documents in accordance with the Act against any claim or action in respect of breach of copyright.

2.3 RECEIPT AND CONSIDERATION OF SUBMISSIONS

In order to allow for proper consideration of submissions and where the development is designated development, to retain any third party appeal rights, submissions should be received in Council offices before the close of business on the last nominated date. Late submissions, where prior notice has been given, will generally be considered if received prior to final reporting of the application.

Submissions will be acknowledged upon receipt and notice of the determination will be forwarded to all those persons who made a submission. If an application is to be referred to a full meeting of Council for determination persons who have made submissions will be advised of the date of the meeting. Persons who attend the meeting may have the opportunity to address Council.

2.4 CONFIDENTIALITY OF SUBMISSIONS

In most instances, the names and addresses of individuals will remain confidential. However the NSW Government Ombudsman is of the view that copies of submissions should generally be released on request, including both the substance of the submission and the identity of the person lodging that submission. This open access policy is based on the belief that it is in the public interest that submissions on land-use applications are made in good faith and are based on the merits of the proposal.

Whilst Council generally follows the view expressed by the Ombudsman, access to submissions on land-use proposals will normally only be granted by Council following a Freedom of Information application. A person who has lodged a submission and has concerns about the release of their name, or any other material that identifies them, can submit valid written reasons for seeking confidentiality. In such circumstances Council may attempt to withhold release of this information notwithstanding the fact that a Freedom of Information application has been lodged.

Where applications are reported to Council, the content of submissions are summarised and total numbers of petitioners and objectors are given.

2.5 PUBLIC MEETINGS

Where the Group Manager determines that a proposal for which consent may be given is of sufficient interest and significance to the community, a public meeting may be called to discuss the proposal before the assessment of the matter is finalised. This is however followed only in unusual circumstances where such a meeting can add information not easily obtained through submissions.

Meetings will generally be arranged by written invitation to those persons who made submissions. Where there is likely to be a wider community interest, a notice will be placed in the local newspaper or displayed in a prominent position in the respective village/town.

Council has in place a Mediation Policy which in some circumstances may be an appropriate means of facilitating the resolution to conflicting points of view. Council will, on request, determine those applications that should be the subject of a formal mediation process.

2.6 NOTICE OF COUNCIL MEETING

Where a development application is being referred to Council, people who have made written submissions, together with applicants will be advised of the scheduling of the item for the Council meeting. While Council will endeavour to give reasonable notice of the meeting, the period may be limited due to the scheduling of meetings. Where referral to the full Council is anticipated in advance, a letter to that effect will be sent, advising of such a likelihood.

2.7 ADVICE OF DETERMINATION

A list of all development consents and refusals will be published fortnightly in the local newspaper. The notice will describe the land and the development, and advise that the determination is available for inspection free of charge at the office of the Council during ordinary office hours.

Any person who makes a written submission to a development application will be notified of the determination of that application. In the case of designated developments, the notice to an objector will be made at the same time as the Notice of Determination is given to the applicant and will advise the objector of the rights of appeal. A consent for a designated development will not commence operation until 28 days after the issue of the notice, being the time in which objectors may lodge an appeal in the Land and Environment Court.

Individual signatories to a petition will not be advised but a reply will be given to a representative where that representative is nominated on the petition.

SECTION 3 - OTHER LAND USE MANAGEMENT FUNCTIONS

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) governs a range of land use management activities, in addition to the requirements for development applications which are covered in Section 2. The other plan making functions, being the preparation of Local Environmental Plans, Development Control Plans and Section 94 Contribution Plans, are all subject to prescribed community consultation procedures.

3.1 DRAFT LOCAL ENVIRONMENTAL PLANS

Where Council resolves to prepare a draft local environmental plan for the purpose of rezoning an area of land, amending statutory controls, or reclassifying a parcel of land, a draft plan must be exhibited for public comment in accordance with Section 66 of the Environmental Planning and Assessment Act. In the case of a site specific Plan, Council will additionally also notify affected landowners in the immediate vicinity.

3.1.1 ADVERTISING AND NOTIFICATION OF DRAFT LOCAL ENVIRONMENTAL PLANS

The exhibition of a draft Local Environmental Plan (LEP) will be advertised in the local paper, stating the places at which and the times during which the draft LEP may be inspected.

The notice will be published in a local newspaper, no later than the start of the period of public exhibition.

The advertisement will specify the period during which submissions will be received and that period must not be less than 28 days.

Council will prepare a draft LEP if it proposes to reclassify community public land, which will include a description of the subject land in accordance with Section 34 of the Local Government Act 1993.

3.1.2 EXHIBITION OF DRAFT LOCAL ENVIRONMENTAL PLANS

Draft LEPs will be exhibited on the notice board in the foyer of Council Headquarters, Katoomba. Proposals affecting Planning Areas 3 to 5 will also be available at Springwood Office. Where space permits, proposals affecting Planning Areas 4 and 5 will be exhibited at Springwood or Blaxland libraries respectively. Where there is no space for exhibition at these venues, a copy will be available for inspection upon request. The exhibition will include:

- a copy of Draft Local Environmental Plan
- a copy of the section 65 certificate that permits the exhibition to proceed;
- the Council Report on the Draft LEP and such other information as is necessary
- a locality map, if a map is relevant and is not part of the Draft LEP;
- a copy of the environmental study (if one has been required);
- reference to the availability at the Council office of the relevant State Policies,
- Regional Plans or Ministerial Directions for reading in conjunction with the exhibited Draft LEP and advice, where applicable, that such a policy, plan or direction substantially governs the content and operation of the Draft LEP and that submissions made should have regard to that policy or plan;
- a 'plain English' version of the Draft LEP if Parliamentary Counsel's Opinion has not been obtained;

- information on the period during which submissions may be made to the Council.
- advice that in addition to making a submission, that a Public Hearing into the draft LEP can be requested.

3.1.3 COPIES OF DRAFT PLANS

Copies of Draft Local Environmental Plans are available on request, subject to the payment of reasonable costs.

3.1.4 PUBLIC HEARINGS

Should Council decide that a public hearing will be held under section 68 of the EPA Act, notice will be given of that hearing to each person who lodged a submission and in the local newspaper. Notice of the hearing will be given at least 21 days before the start of the hearing.

In the case of Draft LEPs that propose to reclassify land from community land to operational land, Section 29 of the Local Government Act 1993 requires that Council must arrange a public hearing under Section 68 of the Environmental Planning and Assessment Act 1979.

3.1.5 DECISION TO PROCEED WITH DRAFT LOCAL ENVIRONMENTAL PLANS

Following the consultation period, receipt of any submissions and report from any Hearing, the Council will consider a report on the draft Plan and any issues raised. Persons who made submissions will be advised of the date of the meeting. Those who attend the meeting may have the opportunity to address Council.

The Council will resolve whether to proceed with the Plan as exhibited, with amendments, exhibit with draft amendments, or abandon the proposal. If Council resolves to proceed with the draft LEP the matter is referred to the Minister for Infrastructure, Planning and Natural Resources for finalisation.

3.1.6 PUBLICATION OF THE LOCAL ENVIRONMENTAL PLAN

The finalisation of a Local Environmental Plan by the Minister, will be notified in the Government Gazette and advertised in the local newspaper, or otherwise, as the Minister directs under Section 70(7) EPA Act.

3.1.7 SUMMARY GUIDELINES - LOCAL ENVIRONMENTAL PLANS

In summary the key steps in preparing a Local Environmental Plan are:

1. Draft Plans to be exhibited a minimum of 28 days.
2. To be advertised in the local newspaper no later than the commencement of exhibition.
3. To be exhibited on notice board Katoomba main office, and in such other locations as appropriate, to be available for inspection together with the necessary support documentation.
4. Notice of gazettal to be placed in local newspaper.

3.2 DEVELOPMENT CONTROL PLANS

Where Council resolves to prepare a Draft Development Control Plan, the draft plan will be exhibited for public comment in accordance with Section 72 of the Environmental Planning and Assessment Act, 1979, and the Regulations under that Act. In addition Council will notify affected landowners in the immediate vicinity of site specific Development Control Plans.

The proposed revocation of Development Control Plans will also be advertised in the Newspaper/notified in the same manner as if a new DCP is being prepared.

3.2.1 ADVERTISING AND NOTIFICATION OF DRAFT DEVELOPMENT CONTROL PLANS

The exhibition of Draft Development Control Plans will include an advertisement in the local paper, stating the place and times at which the draft Plan may be inspected by the public. For proposals in Areas 3, 4 and 5 the availability of a copy of the draft Plan for inspection at Springwood office and, where space permits, in either Lawson, Springwood or Blaxland Library, will be stated. Proposals in Areas 1 and 2 may be additionally exhibited in Katoomba library.

The notice shall specify the period, being at least 28 days, during which submissions may be made to Council.

For site specific draft DCPs affected landowners in the immediate vicinity will also receive a copy of the notice and the procedures will generally apply as per the notification of a draft LEP.

3.2.2 EXHIBITION AND COPIES OF DRAFT DEVELOPMENT CONTROL PLANS

The exhibition will include a copy of the draft Development Control Plan and a copy of the relevant Local Environmental Plan.

Copies of Draft Development Control Plans and relevant local environmental plans will be made available on request, subject to the payment of reasonable cost.

3.2.3 DECISION ON DRAFT DEVELOPMENT CONTROL PLANS

Following the consultation period and receipt of any submissions Council will consider a report on the draft DCP.

Persons who made submissions will be advised of the date of the meeting and those who attend may have the opportunity to address Council.

The Council may decide to proceed, re-exhibit with amendments or not proceed with the draft Plan.

3.2.4 PUBLICATION OF THE DECISION REGARDING A DRAFT DEVELOPMENT CONTROL PLAN

The Council will, within 14 days, give notice of its decision on a Draft Development Control Plan, in a newspaper circulating at least once weekly in the local area. The DCP comes into effect on the date of the public notice or such later date as is specified.

The Council provides the Secretary of the Department of Infrastructure, Planning and Natural Resources with a certified copy of any Development Control Plan which is adopted.

3.2.5 REPEAL OF DEVELOPMENT CONTROL PLANS

The Council may repeal a Development Control Plan either in part or whole. This can be through a change to the adopted document or through a superseding Development Control Plan. The Plan process including the provision of a public notice and exhibition is the same as for adopting the original DCP.

3.2.6 SUMMARY GUIDELINES - DEVELOPMENT CONTROL PLANS

1. Advertise Draft DCP in local newspaper 28 day submission period.
2. Notify landowners adjoining if site specific.
3. Advertise in newspaper within 14 days of Council decision.
4. Certified copy to Department of Infrastructure, Planning and Natural Resources for adopted plans.

SECTION 4 - OTHER LAND USE MANAGEMENT FUNCTIONS

LOCAL GOVERNMENT ACT 1993

4.1 APPLICATIONS GENERALLY

The Local Government Act 1993, governs a range of other land use related matters including activities that require approval, requirements for the preparation of Plans of Management and preparation of Local Approvals Policies.

4.2 APPLICATIONS UNDER SECTION 68 OF ACT

Section 68 of the Local Government Act provides for a number of approvals, however of these, only applications for a Place of Public Entertainment is the subject of consultation.

This is due to the potential impacts of this type of use.

4.2.1 USE OF A BUILDING OR TEMPORARY STRUCTURE AS A PLACE OF PUBLIC ENTERTAINMENT.

An application proposing to carry out 'public entertainment' (as defined within the Dictionary to the Act) will be notified to adjoining property owners and may be advertised in the local paper where the nature of the proposed public entertainment is not specifically covered by a consent issued under the Environment Planning & Assessment Act 1979 of any Environmental Planning Instrument within the meaning of that Act applicable to such land.

Applications will also be notified to those public authorities that Council considers may have an interest in determining the application (eg. Liquor Administration Board). Notice of the application will be exhibited at Katoomba office and where appropriate other venues.

Notification will include the following relevant details:

1. Common name of premises
2. Address of premises
3. Nature and frequency of proposed public entertainment activity
4. Commencement & cessation times associated with the proposed public entertainment activity.

A period of fourteen (14) days will generally apply from the date of Council's notification letter or advertised notice, within which a written submission may be made.

The Council will consider all submissions prior to determining the application. Advice of the decision will be forwarded to those who made a submission.

4.3 PLANS OF MANAGEMENT FOR COMMUNITY LAND

4.3.1 ADVERTISING OF DRAFT PLAN OF MANAGEMENT

Council must give public notice of a Draft Plan of Management (POM) in accordance with Section 38 of the Local Government Act 1993. The Draft POM must be exhibited for a period of not less than 28 days. In addition, the notice must also specify a period of not less than 42 days after the date on which the Draft POM is placed on public exhibition during which submissions may be made to Council.

4.3.2 EXHIBITION OF DRAFT PLAN OF MANAGEMENT

The exhibition shall include the Draft POM together with any other material as is considered appropriate or necessary to enable its implications to be understood. The Draft POM will be exhibited at Council's Katoomba Offices and in the case of draft POMs relating to land in Planning

Areas 3 to 5, these will also be exhibited at Council's Springwood Office. For complex or significant Draft POMs, the plans will also be exhibited at either Katoomba, Lawson, Springwood or Blaxland libraries, according to the relevant Planning Area.

4.3.3 AMENDMENT OF DRAFT PLAN OF MANAGEMENT

Should Council decide to amend a Draft POM, it must publicly re-notify and exhibit the Draft POM in accordance with the Local Government Act 1993 as outlined above, until the Draft POM may be adopted without further amendment.

4.3.4 ADOPTION OF DRAFT PLAN OF MANAGEMENT

Following exhibition the Council after consideration of submissions and advice may or may not adopt a draft POM. The Council will give notice in the local newspaper of the adoption or amendment to a POM.

4.4 DRAFT LOCAL APPROVALS POLICY

Council must exhibit a Draft Local Approvals Policy for public comment in accordance with Section 160 of the Local Government Act, 1993.

4.4.1 ADVERTISING OF DRAFT APPROVALS POLICY

A Draft Local Approvals Policy must be advertised and notice must contain advice regarding the period of the exhibition (minimum 28 days), and the period available for submission (minimum 42 days after the date the draft policy was placed on exhibition).

4.4.2 EXHIBITION OF DRAFT LOCAL APPROVALS POLICY

The exhibition will include the Draft Local Approvals Policy together with such other material as is required to enable its implications to be understood. The draft policy will be exhibited at the Katoomba and Springwood offices together with the Katoomba, Lawson, Springwood and Blaxland Libraries where space permits.

Following the consultation period and receipt of any submissions Council will consider a report on the draft POM.

Persons who made submissions will be advised of the date of the meeting and those who attend may have the opportunity to address Council.

4.4.3 AMENDMENT OF DRAFT LOCAL APPROVALS POLICY

If Council decides to amend the Draft Local Approval Policy, it may exhibit the amended draft if the changes are considered to be substantial.

4.4.4 PUBLICATION OF ADOPTION OR REVOCATION OF DRAFT LOCAL APPROVALS POLICY

Notice will be given in the local newspaper of the adoption or the revocation of a Draft Local Approvals Policy.

APPENDIX I

The following uses, in the land use zones nominated are **'advertised development'** within the terms of the Regulations to the Environmental Planning and Assessment Act 1979, and as such require advertising and notification in accordance with section 79A of the Environmental Planning and Assessment Act and Clauses 86-91 of the Regulations.

USE	LEP 1991	LEP 4				
		2A1 2A2 2B1 2B2	2C1	2C2	2D	2B1 2B2 2C1 2C2 2D
Child Care Centre	X	X	X	X	X	
Club	X			X	X	
Demolition,Heritage Item	X					
Educational Establishment	X					
Home Industry	X	X	X	X	X	
Hospital	X	X	X	X	X	
Motel			X	X	X	
Place of Public Worship	X	X	X	X	X	
Reception Establishment				X	X	
Recreation Facility	X					
Residential Flat Building						X
Schedule 1 LEP 4						
Agency offices			X	X	X	
Arts & crafts gallery			X	X	X	
Beauty salon			X	X	X	
Dressmaking			X	X	X	
Friendly/ Benevolent Society			X	X	X	
Health studio			X	X	X	
Instrument repair			X	X	X	
Hairdresser			X	X	X	
Library			X	X	X	
Photgraphic studio			X	X	X	
Professional office			X	X	X	
Silk screening printing			X	X	X	
Tailoring			X	X	X	

Tutorial college			X	X	X	
Watch repair			X	X	X	

State Environmental Planning Policy

Development nominated in a State Environmental Planning Policy eg State Environmental Planning Policies No.33 Hazardous and Offensive Development, No.37 Continued Mines and Extractive Industries.