

Notice of Application to Erect a Building Policy

1 Document Information

Version Date <i>(Draft or Council Meeting date)</i>	[22 May 2018]
Author	Director of Environmental Services
Owner <i>(Relevant director)</i>	Director of Environmental Services
Status – <i>Draft, Approved, Adopted by Council, Superseded or Withdrawn</i>	Adopted by Council
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Minute number <i>(once adopted by Council)</i>	18/05/20

2 Summary

Provides details for when Council is required to give notice when Council has received an application to erect a building.

3 Approvals

Title	Date Approved	Signature
Director of Environmental Services		

4 History

Minute No.	Summary of Changes	New Version Date
94/6/110		20/06/94
96/3/99-6	“road, laneway, railway, stream”	18/03/96
98/1/40	“... Pathway, driveway, public roadway or laneway and is directly opposite the subject land”	19/01/98
10/11/11	Adopted by Council at November Meeting	15 November 2010
13/09/30	Readopted as per s165(4)	17 September 2013
18/05/20	Readopted as per s165(4)	22 May 2018

5 Reason

Council has obligations under the LG Act to notify adjoining land owners of applications received to erect a building under certain circumstances.

6 Scope

Throughout the Cabonne LGA.

7 Associated Legislation

Local Government Act 1993

8 Definitions

LG Act – Local Government Act 1993

LGA – Local Government Area

9 Responsibilities

9.1 General Manager

The General Manager is responsible for the overall control and implementation of the policy.

9.2 Directors and Managers

Directors and Managers are responsible for the control of the policy and procedures within their area of responsibility.

10 Related Documents

Document Name	Document Location

11 Policy Statement

Notice of Application to erect a Building

Preamble

1. Council is required by virtue of Section 114 (1) of the Local Government Act 1993, to give notice of an application for approval to erect a building to the persons who appear to Council to own the land adjoining the land to which the application applies if, in the Council's opinion, the enjoyment of the adjoining land may be detrimentally affected by the proposed building after its erection.

In forming its opinion, Council must take into consideration the effect that the proposed building would have, after its erection, on the following:

- the view to and the views from the adjoining land
- the overshadowing of the adjoining land
- the privacy of the adjoining land
- the likelihood of the adjoining land being detrimentally affected by noise
- the streetscape
- any relevant matter in criteria in a local policy adopted by Council under Part 3 of Chapter 7 of the Local Government Act.

2. Persons to whom notice will be given
 - a) Notice will be given to persons who appear to Council to own the land adjoining the land to which the application applies if, in the Council's opinion, the enjoyment of the adjoining land may be detrimentally affected by the proposed building after its erection.
 - b) Council will also give notice of the making of an application for approval to erect a building to persons to whom notice is required to be given under criteria in a local policy adopted by the Council.
 - c) Land is considered to adjoin other land if, and only if it abuts that other land or is separate from it only by a pathway, driveway, public road, laneway, railway, stream or similar thoroughfare.

3. When will notice be given

Notice will be given as soon as practicable after the building application is made to the council and fourteen (14) days before the Council determines the application.

Form of notice

Notice will be given on the prescribed form to this code and will be accompanied by a plan in an approved form showing the height and external configuration of the building in relation to the site on which it is proposed to be erected.

Criteria concerning notice of applications

Council will have regard to all matters stated in Section 114(2) of the Local Government Act 1993, and listed in Preamble, Clause 2 of this Code.

Notice of applications to erect buildings will not be given to persons other than those required to be given notice under Section 114(1) and listed in Preamble, Clause 1 of this Code.

A period of ten (10) days is the period during which a person may inspect a plan relating to an application; and the concurrent period during which submissions concerning an application may be made.

Who may inspect plans

A person may at any time during the ordinary office hours of the Council, inspect, free of charge such plans of a proposed building as show its height and its external configuration in relation to the site on which it is proposed to be erected, whether or not the person has been, or is entitled to be, given notice, under Section 114 or 115, or the making of the relevant application for approval to erect the building.

Making and consideration of submissions

A person may make a submission in writing, addressed to the General Manager, concerning an application for approval to erect a building of which notice has been given under Section 114 or 115.

Notice of determination

Council will give notice of the determination of an application to the applicant as soon as practicable after the determination.

This notice may take the form of the release of the approved plan.

In addition to the notice referred to in 1. above Council will also give notice of the determination of an application for approval to erect a building to each person who made a submission.

Notice of application not required in certain cases

Council will not give notice of an application to erect a building in the following cases; that is where:

Notice has been given of the making of a development application, or an application to vary the building line, relating to the same proposal.

The plans of the proposed building showing its height and external configuration in relation to the site on which it is proposed to be erected where available for inspection at the time the notice of the development application, or the application to vary the building line, was given and there has been no significant change to the height and external configuration as shown on those plans.

The owner of adjoining land is one of the persons who made the application for approval to erect the building.

Approval is sought to enclose a verandah under an existing roof.

Minor alterations to a dwelling where its external configuration will not be altered.

Any other building or addition which in the opinion of the Delegated Officer would not detrimentally affect the enjoyment of adjoining or any other land having regard to the criteria detailed in A.2.