

SECTION 1 - INTRODUCTION

1.1 PREAMBLE

On September 30, 2005 the *Environmental Planning and Assessment Act 1979* (EP & A Act) was amended to provide that only one Development Control Plan (DCP) prepared by a consent authority may apply to any land within a Local Government Area. In order to comply with this amended provision, Council has reviewed all of its existing DCPs into this DCP, which also incorporates new sections. Other DCPs that no longer have any relevance were repealed as part of this process. From time to time, the DCP will require amendment to incorporate new sections or to repeal or amend existing provisions.

1.2 PURPOSE OF THE DCP

The DCP complements the statutory provisions contained in the Muswellbrook Local Environmental Plan by providing detailed guidelines to assist applicants, staff and others involved and interested in development within the Muswellbrook Local Government Area.

1.3 AIMS OF THE DCP

The aims of the DCP are:

- a) To provide a detailed planning document that outlines requirements for development which meets community expectations and addresses the key environmental planning issues of the Local Government Area;
- b) To identify and to detail public notification requirements in accordance with section 74C of the EP & A Act;
- c) To promote a more simplistic framework for dealing with Development Applications (DAs) consistent with the amended requirements of the EP & A Act;
- d) To encourage and assist effective community participation in the decision-making process;
- e) To provide a more accessible and understandable set of guidelines to the general public; and
- f) To apply common or consistent requirements and procedures in the assessment of all applications.

1.4 STATUTORY REQUIREMENTS

The DCP is titled "Muswellbrook Shire Development Control Plan 2009". The DCP is a development control plan prepared under Section 74C of the Environmental Planning and Assessment Act and Environmental Planning and Assessment Regulations.

Section 74C(5) in the EP & A Act provides that, in the event of any inconsistency between this DCP and the provisions in an environmental planning instrument (such as a State Environmental Planning Policy, Regional Environmental Plan or Local Environmental Plan) the environmental planning instrument shall prevail.

For the purposes of interpreting certain clauses in the Muswellbrook LEP, reference in Section 79C(1)(a)(iii) of the EP & A Act requires Council (or any other consent authority) to consider this DCP when determining development applications that are covered by this DCP.

1.5 LAND TO WHICH THIS DCP APPLIES

This DCP applies to all land within the Muswellbrook Local Government Area (LGA).

1.6 RELATIONSHIP TO PREVIOUS DEVELOPMENT CONTROL PLANS

This DCP replaces the following Development Control Plans:

DCP No. 1 – Off Street Parking Guidelines
DCP No. 2 – Industrial Development Land Use
DCP No. 3 – Muswellbrook Urban Housing
DCP No. 4 – Eastern Land Bank South Muswellbrook
DCP No. 6 – Flood Prone Land
DCP No. 8 – Guidelines for Subdivision
DCP No. 9 – Erosion and Sediment Control Regional Policy and Code of Practice
DCP No. 10 – Determination of Rezoning and Development Applications Involving Contaminated Land
DCP No. 12 – Exempt and Complying Development and Notification Procedures
DCP No. 14 – Liquid Trade Waste Policy
DCP No. 15 – Muscle Creek Rural Residential Development
DCP No. 16 – Sex Industry Premises
DCP No. 17 – The Keeping of Dogs and the Erection of Kennels
DCP No. 18 - Onsite Wastewater Management in Non-Sewered Areas
DCP No. 19 – Frost Control Fans
Guidelines Document for Signage Applications

1.7 HOW TO USE THIS DCP

This DCP contains sections relevant to the different types of land uses, development and zonings permitted under the Muswellbrook LEP. If you are planning to lodge a development application, find the relevant section of the DCP that relates to your proposal, and address the relevant controls in designing your development.

Within each section, if the provisions of another section within the DCP are relevant to the proposed development, they will be referenced within that section rather than repeated.

This DCP is comprised of the following sections:-

- 1 – Introduction
- 2 – Submitting an Application
- 3 – Site Analysis
- 4 – Notification
- 5 – Subdivision
- 6 – Residential Development
- 7 – Village Zones
- 8 – Rural Development
- 9 – Local Centre Development
- 10 – Industrial Development
- 11 – Extractive Industry
- 12 – Tourist Facilities and Accommodation

- 13 – Flood Prone Land
- 14 – Outdoor Signage
- 15 – Heritage Conservation
- 16 – Car Parking and Access
- 17 – Sex Services and Restricted Premises
- 18 – Child Care Centres
- 19 – Use of Public Footpaths
- 20 – Erosion and Sediment Control
- 21 – Contaminated Land
- 22 – Land Use Buffers
- 23 – Onsite Wastewater Management Systems
- 24 – Waste Management
- 25 – Stormwater Management

1.9 HOW TO INTERPRET THIS DCP

Council shall take the provisions of this DCP into consideration in determining DAs. However, compliance with the provisions of this DCP does not necessarily imply that Council will consent to an application. Council must consider the full range of matters listed under Section 79C of the EP&A Act. Each application will be considered on its merits.

1.10 DEPARTURES AND REQUESTS FOR VARIATIONS TO THIS DCP

Council may consent to an application that departs from the provisions of this DCP. Where applicants seek a departure or variation from the provisions of this DCP, the request must be in writing (either as part of the Statement of Environmental Effects, or a separate submission) and justify the reasons for the departure. Such justification may necessitate the submission of additional plans, diagrams, photomontages and the like, or additional studies and reports such as acoustic or odour assessment studies, traffic and car parking studies, etc.

Any variation or departure will only be considered where it can be demonstrated to Council's satisfaction that there is a clear case for variation of the provisions, and that the overall zone objectives and any specific provisions of the Muswellbrook LEP and this DCP (including the relevant section) will be satisfied.

1.11 DEFINITIONS

The definitions and terms in this DCP adopt the relevant definitions contained within the Muswellbrook LEP. Terms that relate to the interpretation of terms and meanings used within various chapters in this DCP are contained within those chapters, or where not specified, the relevant definition from the Macquarie Dictionary shall apply. All interested persons should ensure that definitions are appropriately sourced and referenced before preparing any applications to Council.

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