

## Part 1 Preliminary

### Explanatory outline

Part 1 sets out the general context and framework for the DCP. The following matters are covered:

- statutory context
- purpose of the DCP
- how the DCP applies to development
- determination of development applications
- structure of the DCP and how to use it.

### 1a Statutory context

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#### 1a.1 Title

This plan is *Upper Hunter Development Control Plan 2015* ('the DCP').

#### 1a.2 Status

The DCP is a development control plan prepared under section 72 of the Environmental Planning and Assessment Act 1979.

#### 1a.3 Relevant LEP

The DCP supplements the provisions of the *Upper Hunter Local Environmental Plan 2013*.

#### 1a.4 Commencement

The DCP was adopted by Council on 25 May 2015 and commences on 4 June 2015.

#### 1a.5 Previous policies & plans

The DCP repeals the policies and plans listed in Schedule 1.

#### 1a.6 Relationship to other environmental planning instruments

In the event of an inconsistency between any environmental planning instrument and the DCP, the provisions of the environmental planning instrument prevail.

#### 1a.7 Where the DCP applies

The DCP applies to all land within the Upper Hunter local government area, as shown in Figure 1.



## 1b Purpose of the DCP

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The purpose of the DCP is to:

- provide a detailed development assessment framework that delivers outcomes desired by the Upper Hunter community
- provide clear and concise development guidelines for various forms of development
- encourage innovation in design and development by not over-specifying development outcomes
- provide certainty in development outcomes for developers and the community.

## 1c How the DCP applies to development

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### 1c.1 Development that needs consent

The DCP applies to all development that may only be carried out with consent under Part 4 of the *Environmental Planning and Assessment Act 1979*.

### 1c.2 Exempt & complying development

The DCP does not apply to:

- exempt development
- complying development for which a complying development certificate is sought or obtained.

**Note.** Exempt and complying development are specified in various environmental planning instruments, including:

- Upper Hunter Local Environmental Plan 2013 (refer to Schedules 2 and 3)
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Infrastructure) 2007

### 1c.3 Development that does not need consent

It is the intention of the Council to take this DCP into account when determining activities under Part 5 of the *Environmental Planning and Assessment Act 1979*, in relation to development that does not require consent under Part 4 of that Act.

The Council recommends that other public authorities should take this DCP into account when determining activities under Part 5 of the *Environmental Planning and Assessment Act 1979*.

## 1d Determination of development applications

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### 1d.1 Development application process

The Upper Hunter Shire Council *Application Guide* provides a summary and explanation of the development application process.

### 1d.2 Matters for consideration under EP&A Act

When determining a development application, the Council (or other relevant consent authority) is required to take into consideration the matters listed in section 79C(1) of the *Environmental Planning and Assessment Act 1979*. These may be summarised as:

- the provisions of relevant environmental planning instruments and development control plans (including this DCP)



- planning agreements or draft planning agreements under section 93F of the *Environmental Planning and Assessment Act 1979*
- matters prescribed by regulation
- likely impacts of the development, including those on the natural, built, social and economic environments
- the suitability of the site
- any submissions made by the public
- the public interest.

### 1d.3 How this DCP applies to development applications

When determining a development application, the Council (or other relevant consent authority) will take into consideration the extent to which any applicable objectives or development outcomes specified by this DCP will be satisfied or achieved by the design, construction or operation of the proposal.

## 1e Structure and application of the DCP

### 1e.1 Preliminary (Part 1)

Part 1 outlines the statutory context, purpose, and structure of this DCP.

### 1e.2 Development application process (Part 2)

Part 2 sets out some procedural requirements that apply to development applications. There are separate sections for:

- preparing and lodging a development application
- public notification.

### 1e.3 Assessment considerations (Parts 3 to 12)

Parts 3 to 11 of the DCP each relate to a matters that relate to the following broad classes of development, particular issues or specific locations:

- **Part 3: Subdivision**—matters that apply to the subdivision of land.
- **Part 4: Urban residential**—matters that apply to residential accommodation (other than rural dwellings).
- **Part 5: Commercial development**—matters that apply to commercial development.
- **Part 6: Industrial development**—matters that apply to industrial development (but not rural industries).
- **Part 7: Rural development**—matters that apply to rural activities and rural dwellings.
- **Part 8: Other development**—matters that apply to other types of development, including tourist and visitor accommodation, advertising and signage, and wind energy systems.
- **Part 9: Heritage conservation**—matters that apply to heritage items, heritage conservation areas, and development that may affect Aboriginal cultural heritage.
- **Part 10: Natural hazards**—matters that apply to development likely to be affected by natural hazards, including flood risk, bushfire risk and geotechnical hazard.
- **Part 11: Environment protection**—matters that need to be considered to ensure adequate protection of the environment, including:
  - biodiversity conservation
  - watercourses and riparian land
  - groundwater protection

- drinking water catchments
- soil and water management
- waste water management
- waste minimisation and management
- buffer areas.
- **Part 12: Specific infrastructure issues**—including access and car parking.
- **Part 13: Specific localities**—matters that apply to miscellaneous localities or precincts.

Each Part (with the exception of Part 10a Floodplain Management) is divided into several sections dealing with specific issues or types of development. Each section in turn specifies applicable assessment criteria and other relevant matters according to a similar basic format, as follows:

- **Application of this section**—specifies the circumstances in which the section applies, based on the type and location of development.
- **Relevant planning instruments & legislation**—identifies other statutory instruments that may be relevant.
- **Definitions**—identifies specialised terms that are relevant to the section. These terms are defined in Part 14 Dictionary.
- **Objectives**—specifies the general objectives that the section seeks to promote.
- **Supporting plans & documentation**—identifies information or other matters that are to be provided with development applications, usually as part of a statement of environmental effects. This information is necessary to enable a proper assessment of the proposal.
- **Assessment criteria**—specifies two types of criteria that the Council will take into consideration when determining a development application. Note: Part 10a Floodplain Management uses prescriptive requirements and performance-based criteria rather than the following criteria.
  - **Design outcomes**—these are ‘performance-based criteria’ that must be satisfied or achieved by the design, construction or operation of the proposal. They indicate what is to be achieved, rather than the manner in which it is to be achieved.
  - **Design guidelines**—these are suggested design and operational guidelines that, if followed, would assist in achieving the design outcomes. The guidelines do not preclude other solutions that may be suitable under particular local circumstances. All proposals will be considered on merit.
- **Supplementary guidance**—identifies reference documents that provide further advice or information.

#### 1e.4 Dictionary

The Dictionary provides a dictionary of terms used in the DCP. Most of the terms are drawn from the *Upper Hunter Local Environmental Plan 2013*, which incorporates the dictionary of terms contained in the *Standard Instrument (Local Environmental Plans) Order 2006*. Other terms are drawn from other important documents. In some cases, terms are defined according to their meaning in various Acts or Regulations. Sources of defined terms are indicated at the end of each definition.

Note that most land uses and land use activities that are used in the DCP are defined in *Upper Hunter Local Environmental Plan 2013*, unless they are specifically defined in this DCP.

#### 1e.5 Schedules

The Schedules provide additional detail to issues referenced in previous sections.