

# City of Sydney Notification of Planning and Development Applications Development Control Plan 2005



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# 1. Introduction

## 1.1. Citation

This development control plan (DCP) is called the *City of Sydney Notification of Planning and Development Applications Development Control Plan 2005*.

## 1.2. Area to which the plan applies

This DCP applies to all land within the City of Sydney as shown in Figure 1, where the City of Sydney or Central Sydney Planning Committee is the consent authority.

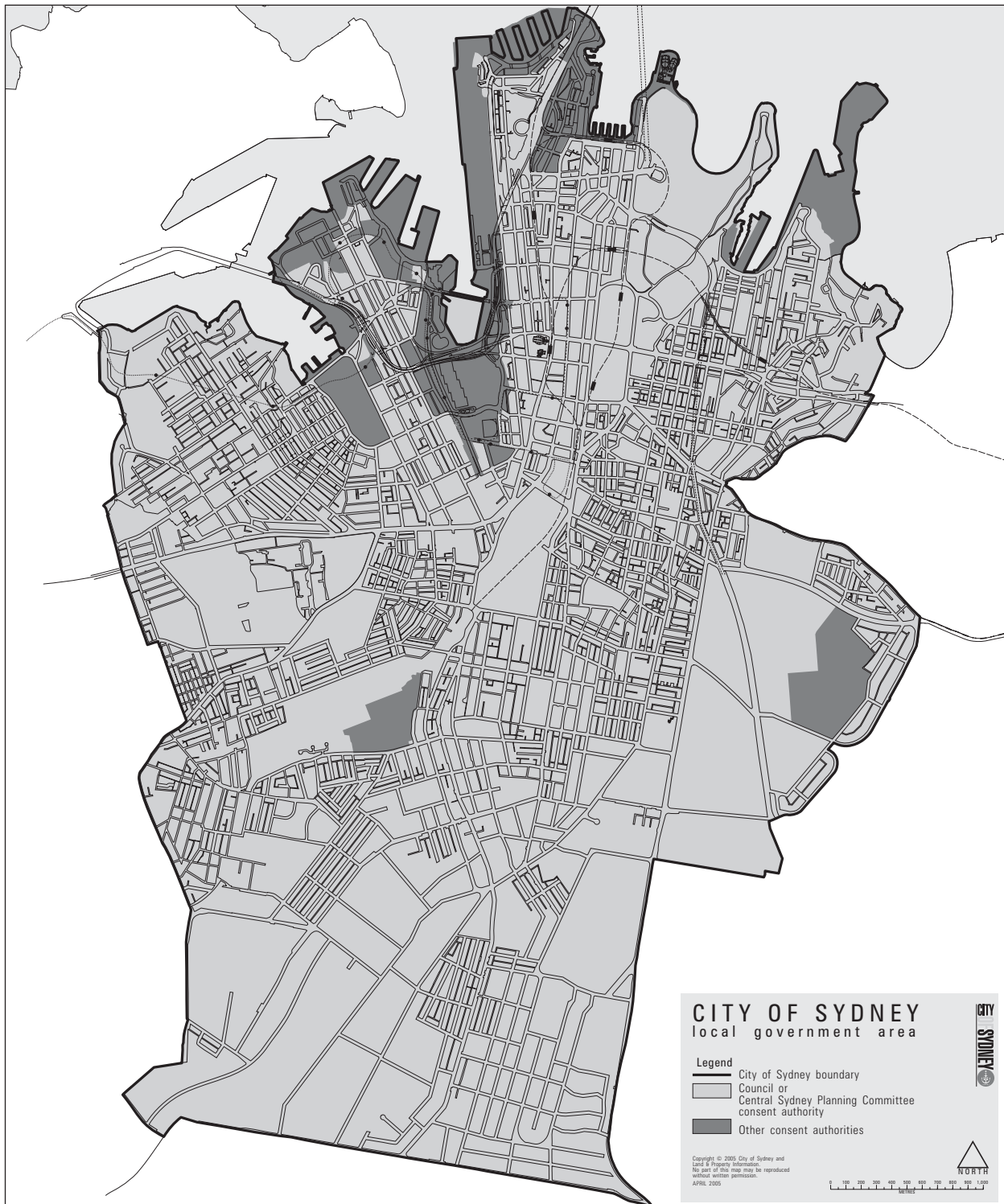


Figure 1 - The City of Sydney

### **1.3. Commencement**

This DCP was approved by the Council of the City of Sydney on 11 April 2005 and the Central Sydney Planning Committee on 5 May 2005. The DCP commenced operation on 18 May 2005.

### **1.4. Relationship to other environmental planning instruments and development control plans.**

This DCP complements the provisions of the relevant environmental planning instruments as they apply to the City of Sydney and overrides any other non-statutory notification provisions in the event of inconsistencies.

This DCP repeals the following development control plans or parts thereof where they apply to the City of Sydney:-

- *City of Sydney Public Consultation Development Control Plan 2003.*
- *Notification of Development Applications Development Control Plan 2003* (prepared by South Sydney City Council)

## 2. Purpose and objectives

### 2.1. Purpose

Public participation is an essential component of the development process. The purpose of this DCP is to ensure that public participation is facilitated in an orderly and transparent manner within the City of Sydney when dealing with development applications and related matters.

### 2.2. Objectives

The objectives of the DCP are to:

- outline procedures for the notification and advertisement of development applications, applications to modify development consents and the review of development consents;
- provide an opportunity for public participation in the development application process and invite comment on such matters;
- establish a communication process in relation to the assessment of development applications and related matters;
- increase public awareness of the development application process;
- specify circumstances when notification of development applications is not required;
- identify development applications that will be notified and/or advertised and those persons who will be notified;
- ensure that is consistency in the notification of similar applications;
- facilitate the efficient processing of applications without compromising the opportunity for public participation.

### 2.3. Notification Minimums

This Development Control Plan provides assurances for all stakeholders of the basic rights for the Notification of Planning and Development Applications. The provisions within the Development Control Plans relating to notification areas and times are minimums and may be increased (not reduced) at the discretion of the assessing officer, considering the nature and likely impact of the proposal

## 3. Provisions

### 3.1. What types of development do these advertising and notification provisions apply to?

The advertising and notification provisions will apply to all development and related applications lodged in the City of Sydney, except for development applications that fall into one or more of the following categories:-

- Designated Development;
- State Significant Development; and
- Integrated Development.

The above categories of development have their own requirements for advertising in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Act Regulation 2000*.

Note: Notification procedures for planning policies such as development control plans and local environmental plans have their own requirements specified in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Act Regulation 2000*.

### 3.2. Categories of Development

Within the City of Sydney there are four categories of development for the purpose of this DCP, based on the anticipated impacts of the proposed development on its environment.

These four categories of development are:-

- Development that is not advertised or notified (identified as "A" in the following table);
- Development that is notified for 14 days (identified as "B" in the following table);
- Development that is advertised and notified for 21 days (identified as "C" in the following table); and,
- Development that is advertised and notified for 28 days (identified as "D" in the following table).

These categories of development have different consultation requirements. The following page outlines which development types fit into these notification categories.

In all cases, the decision in respect to what category a particular development is for the purposes of this DCP shall be made at the discretion of the consent authority and, generally in accordance with this DCP.

CATEGORY	A	B	C	D
Exempt and Complying Development	x			
Subdivision where no new allotments are created	x			
Internal works to a building which is not a heritage item	x			
Signage less than 10m <sup>2</sup>	x			

CATEGORY	A	B	C	D
Change of Use: Non residential land uses excluding convenience stores sex industry premises, premises trading beyond 10pm, places of public entertainment, licensed premises, amusement arcades, change of use of a dwelling to another use, land uses which are not permitted within a zone or inconsistent with zone objectives, or other like uses	x			
Minor miscellaneous development applications and modifications to consent which will not impact upon surrounding land uses or increase impacts in comparison to the previous approval(s).	x			
Signage exceeding 10m2		x		
Minor works to a listed heritage item		x		
Minor works to residential or ancillary structures with minimal impacts		x		
Construction or demolition of single dwelling houses and ancillary structures		x		
Residential flat buildings: Additions less than 3 storeys		x		
Commercial buildings: Additions less than 3 storeys		x		
Professional Consulting Rooms		x		
Community Facilities and Events		x		
Industrial development less than 500m2		x		
Subdivisions to create an easement or right of way		x		
Home industry		x		
Extension of trial periods for late night or 24 hour trading		x		
Cafés or restaurants (not in a residential area)		x		
Footway cafes or cartes		x		
Minor alterations or additions to a building in a heritage street scape or heritage conservation area		x		
Development within the public domain (other than significant or minor)		x		
Residential flat buildings: Additions greater than 3 storeys			x	
Commercial buildings: Additions greater than 3 storeys			x	
Industrial development between 500m2 and 1000m2			x	
Applications for the award of Heritage Floor Space			x	
Change of Use: Convenience Stores, Sex industry premises, premises seeking consent to extend trading beyond 10pm, places of public entertainment, pubs, night clubs, bars, amusement arcades and the like.			x	
Change of use of a dwelling to another use, or a non residential use in a residential zone, or other like uses			x	
Change of use where proposed land use is not permitted within a zone or inconsistent with zone objectives, or other like uses			x	
Place of Public Worship child care centres, community centres, schools, higher education institutions, boarding houses, backpackers hostels, boarding houses and SEPP 5 applications.			x	
Change of use for a whole multi-story building			x	

CATEGORY	A	B	C	D
Land subdivisions involving creation of new lots			x	
Any significant works to, or use of, the public domain.			x	
Industrial development exceeding 1000m <sup>2</sup>				x
Any DA where value of work exceeds \$50m.				x
Major DAs: Stage 1 DAs (for sites >1500m <sup>2</sup> or buildings >55m in height), Masterplans, Development Plans, Urban Development Plans.				x
Full demolition or construction of a building in a heritage streetscape or heritage conservation area				x
Development that materially effects a heritage item by either:-				
(i) Reducing or increasing the building envelope occupied by the item, or				
(ii) Being carried out within the airspace above the building envelope occupied by the item.				x

It is noted that not all DAs will fall into one of the categories identified above, and in such instances the Council will determine the most appropriate notification period using the above table as a guide.

## 4. Procedures

### 4.1. Advertising Procedures

- Development that is advertised and notified for 28 days requires an exhibition period of 28 days including notices (describing the development) to be placed in a daily metropolitan newspaper (such as the *Sydney Morning Herald*) and the relevant local newspaper (such as the *Inner West Courier*).
- The notification period for all notified and/or advertised development commences one day after the date of the notification letter.
- Development that is advertised and notified for 21 days requires an advertising period of 21 days including notices (describing the development) to be placed in the relevant local newspaper (e.g. the *Inner West Courier*).
- Development that is notified only for 14 days is not advertised.
- Advertisements in local and metropolitan newspapers must contain the following information:-
  - A brief description of the proposal that outlines the nature and purpose of the development application;
  - The address of the proposed development;
  - The assessment officer;
  - The application reference number;
  - Where the development application may be inspected.

### 4.2. Notification Procedures

- Notification to property owners/occupiers within the notification area as per the following requirements:-
  - For buildings in single ownership notification will be to the building owner;
  - For strata title buildings - notification will be to: the Owners Corporation, the owners of strata units (where a mailing address is known to Council), the occupiers within the building that adjoin the proposed development (if access is available and to a wider area if affected), and subject to compliance of the Owners Corporation (as above), a notice will be placed in the foyer (or adjacent to the foyer) of the strata title building.
- Notification letters must contain the following information:
  - A brief description of the proposal that outlines the nature of the development;
  - The address of the land on which the development is proposed to be carried out;
  - The application reference number;
  - The name of the applicant;
  - The number of storeys, number of residential units and/or commercial floor space, and the number of on-site parking spaces;
  - Where and when the application can be inspected;
  - The invitation to make a written submission;
  - The period during which the application can be inspected and submissions may be made;

- Council address, telephone and e-mail contact including the name of the assessing officer;
- A statement outlining the privacy rights of any person making a submission to Council.
- A statement outlining powers of delegation that allow Council officers to assess the development applications.
- The date of the notification letter.

#### 4.3. Notification at the Development Site

- Plastic covered A3 notice(s) headed "Development Proposal" placed on the main frontage(s) (not service lanes, except where significant development is proposed on that service lane) of the site(s) able to be read from a public place. The notice is to contain the following information:-
  - Development application number.
  - The name of the applicant.
  - Site address of proposed development.
  - Advertising period and the period in which the application can be inspected and submissions made.
  - A brief description of the development.
  - Details of where the application can be inspected and a contact person within Council, including their telephone number.
  - An invitation to make a written statement.
  - The date of the notice.

#### 4.4. Other Forms of Notification

- Details of notified and/or advertised development applications will be placed on Council's Website.
- Details of notified and/or advertised development application will be placed on public exhibition at the City's *One Stop Shop* and any relevant neighbourhood centre.

#### 4.5. Notification Areas

Each notification area is expressed as a minimum and may be increased (not reduced) at the discretion of the assessing officer, considering the nature and the likely impact of the proposal.

- For development that is notified only for 14 days all properties within a minimum 25m radius measured from the boundary of the development application site are to be notified. Any properties on the opposite side of the road outside of the 25m radius will also be notified. Examples of notification areas for development that is notified for 14 days are shown in Appendix A.
- For development that is advertised and notified for 21 days all properties within a minimum 50m radius measured from the boundary of the development application site are to be notified. Any properties on the opposite side of the road outside of the 50m radius will also be notified. Examples of notification areas for development that is advertised and notified for 21 days are shown in Appendix B.

- For development that is advertised and notified for 28 days all properties within a minimum 75m radius measured from the boundary of the development application site are to be notified. Any properties on the opposite side of the road outside of the 75m radius will also be notified. Examples of notification areas for development that is advertised and notified for 28 days are shown in Appendix C.

## 5. Advertising and notification - submissions

### 5.1. Submissions period

Unless otherwise stated, the submission period for each development class is in line with the notification period (except where an extended notification period is given) commencing one day after the date of the notification letter. The newspaper advertisement and notice will refer to the development application and accompanying material as being on exhibition for a stated number of days at the City's One-Stop-Shop and/or Neighbourhood Service Centre, with the closing date for submissions being at the end of the stated period. If the period finishes on a weekend, the period is to be extended to the immediately following Monday. The period may be increased, if the consent authority considers that a longer period should be given in the circumstances.

### 5.2. Making a Submission

Any person, including the occupant of adjoining or neighbouring land, is entitled to make a submission which may object to or support an application within the notification period, whether or not a notification letter has been forwarded to the person. Submissions must be made in writing and delivered to the Council either personally, by post, facsimile or electronic mail.

Written submissions in response to assessment reports must be made by lunchtime one business day prior to the council meeting to allow the submission to be circulated to Councillors for their information. All submissions received within the notification period will be considered in the officers assessment of the application. The terms of any submissions will be summarised in the assessment by the authorised officer. Council and the CSPC is not bound to adopt or support a submission when making its determination. The officers assessment will involve consideration of the merits of all relevant matters.

Submissions should include the following characteristics:-

- The reasons for objection or support.
- Other documents (such as surveys, plans or photographs) may be included in support of a submission.
- Correspondents may suggest ways in which a proposal might be changed to address their objections.
- If persons who lodge submissions wish their personal information to remain anonymous, a clear request must be included asking the City not to make such information available for public inspection
- Submissions must be in writing, be addressed to the Chief Executive Officer, clearly indicating the names, addresses of the person(s) making the submission, quote the development application number, and clearly state the address of the property. The consent authority is to notify people making a submission if the development application is to be considered by Council or the Central Sydney Planning Committee.
- Submissions must include the phone number, e-mail or fax number of person(s) making submissions so the person making the submission can be notified in advance if the matter is considered by Council or the Central Sydney Planning Committee if the person wishes to be contacted.

### **5.3. Petitions**

Where petitions are received in respect to development applications or Section 96 applications the head petitioner or where not nominated the first petitioner will be acknowledged for the purpose of future contact as to the progress of the application. Where a head petitioner or contact is not nominated, one will be selected by the consent authority or its officers. Only the head petitioner will be advised of committee times or receive written confirmation of the determination of an application.

### **5.4. Disclosure of submissions**

Submissions are not confidential. Submissions may be accessed by the public, through Council's Freedom of Information Officer. Also, if the proposal is reported to a committee or Council meeting the issues raised in that submission will be summarised in the development's assessment report.

If a person making a submission does not wish to have the content of the submission or their identity revealed, they must explain their reasons why in their submission. If the reasons provided are considered well founded, the issues raised within the submission may be paraphrased or summarised and made available only on that basis.

### **5.5. Acknowledgment of submissions**

All submissions received during the assessment period are to be acknowledged as soon as practicable. All letters of reply to submissions must include a statement stipulating that if the person making the submission wishes to be notified of Council or CSPC consideration of the development application then they must provide contact details such as a telephone number, fax number or e-mail address.

If the matter is to be determined at a committee or Council meeting the responsible officer will contact the contributor, provided daytime contact details by telephone number, facsimile and/ or e-mail have been given. Best endeavours will be made to ensure that all people who have provided their day time contact details (telephone, fax number or e-mail address) will be contacted at least 5 days prior to determination if the development application is to be considered by Council or the CSPC. However, the onus is on contributors to seek information about meeting dates, times and agendas from the officer dealing with the application or the City of Sydney's Website.

Following determination of an application, all persons who made a submission shall be notified in writing of the decision regarding the application.

### **5.6. Anonymous submissions**

Anonymous submissions will not be considered.

## 6. Amendments, modifications and reviews

### 6.1. Amended Applications

When an application is amended, prior to its determination, the application shall be readvertised or notified (as appropriate in terms of the provisions of this DCP) when the amended application is considered likely to result in additional environmental impacts.

Amended applications that result in a reduction in the environmental impacts of a development proposal are not required to be readvertised or renotified.

If re-notification is to occur for an amended development application for development that is advertised and notified for 28 days or 21 days then the notification period may be reduced to 14 days if the amendment is of a minor nature. This would be at the discretion of the planning officer assessing the development application.

When an application is withdrawn and a subsequent application made the new application will be readvertised or notified in accordance with the provisions of this DCP, as if the previous application had not been made.

### 6.2. Section 96 Applications

When Council or the CSPC has determined an application by approval subject to conditions of consent, the applicant may amend the consent through Section 96 of the Environmental Planning and Assessment Act 1979. Section 96 provides for various types of applications to modify a consent, those being:-

- Section 96 (1) applications involving correction of minor errors and misdescriptions;
- Section 96 (1A) applications involving minimal environmental impacts;
- Section 96(1AA) applications received in relation to Land and Environment Court consents; and,
- Section 96 (2) applications involving other modifications.

Section 96(2) applications will be advertised and notified for a maximum of 14 days. All previous contributors will be notified of the Section 96(2) application.

Section 96(1AA) applications received in relation to Land and Environment Court consents will be advertised and notified in accordance with the provisions of this DCP.

Section 96(1) and (1A) applications will not be advertised or notified.

If a Section 96 (1A) application is considered to warrant advertising or notification it is considered that that application's impacts are not of a minimal nature and the application should be either refused in its present form or amended to be a Section 96(2) application and be advertised and notified in accordance with the provisions of this DCP.

### 6.3. Section 82A Reviews

The determination of a development, whether by way of refusal or approval (subject to conditions) can be reviewed within 12 months of the date of the issue of the Notice of Determination under Section 82A of the Environmental Planning and Assessment Act 1979 by the consent authority.

Applications for a Section 82A review require:

- Re-notification to previous contributors.
- Readvertised and/or notified in the same manner as the original application, if the development application is amended and is considered to have a greater impact than the original development application.

If the development application is amended and is considered to have an equal or lesser impact on the surrounding area than the notification period may be reduced to 14 days.

## 7. Other provisions

### 7.1. Extension of Advertising and Notification Periods

The period for advertising and notification of development applications may be extended up to 40 days in the following instances:-

- During traditional holiday periods (eg December and January); and,
- Where the consent authority or its officers consider the form of development to warrant an extended consultation period.

### 7.2. NSW Land and Environment Court appeals

Section 96 applications received in respect to NSW Land and Environment Court matters shall be advertised and notified in accordance with this DCP.

### 7.3. Notification to properties in adjoining local government areas

Where adjoining properties, not within the City of Sydney, are considered to be affected by development in the City of Sydney they will be notified in accordance with this DCP. Adjoining properties will only be notified for 'advertised and notified development'. Notification of adjoining properties will require the subject local government authority to provide the City of Sydney with the property details of requested properties within 48 hours of the request.

### 7.4 Delegations

Development applications may be determined under delegated authority by a senior Council officer. A copy of the delegations is attached to this DCP at Appendix D. These delegations do not form part of this DCP and may be amended by way of Council resolution.

Council may call in a development application for consideration in the following circumstances:-

- The request must be in writing (email acceptable) to the Chief Executive Officer, from 3 or more Councillors; and
- That prior to lodging the request the relevant Councillors must firstly consult with the Chief Executive Officer or Director of Planning regarding any public objections received, and consider whether or not such objections are well founded, may be satisfied by the imposition of conditions or by the amendment of the application, as advised by the Chief Executive Officer or Director.

### 7.5 Weekly Development Application Information

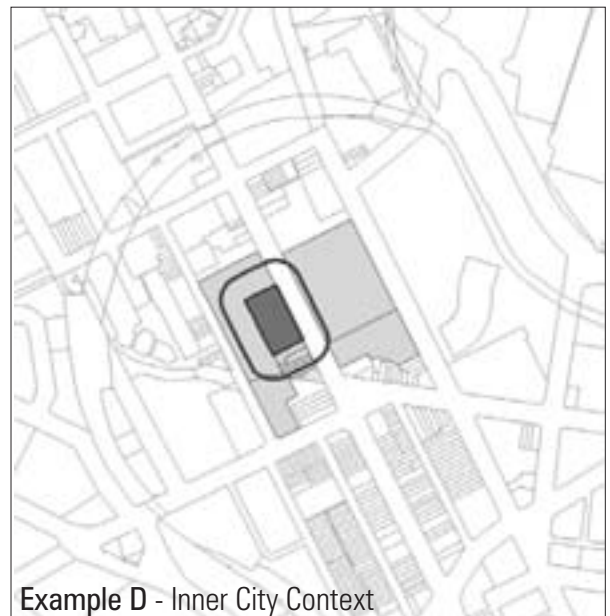
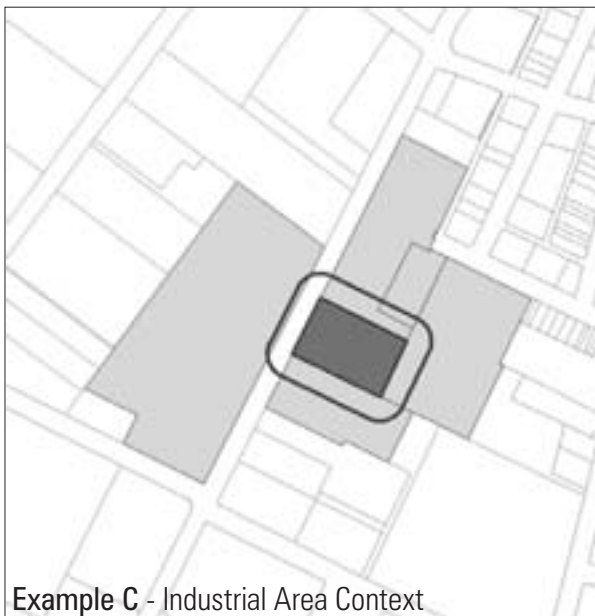
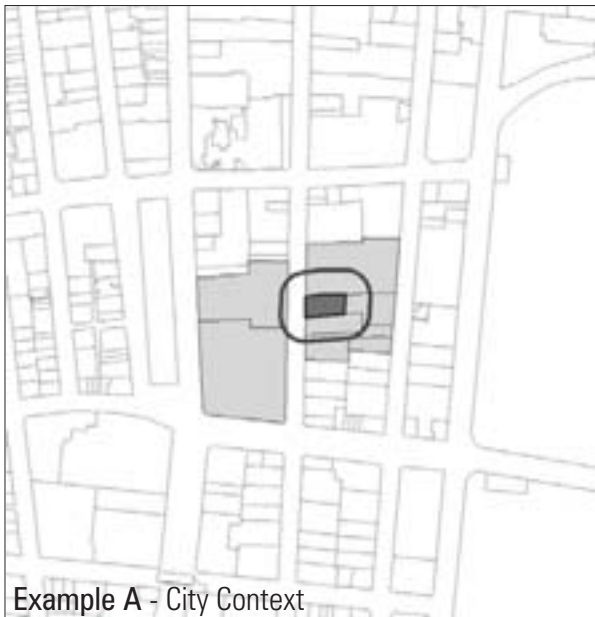
The City will prepare a weekly tabulation of all notified and/or advertised development applications received and place this on notice boards at the at the One Stop Shop and Neighbourhood Service Centres.

### 7.6 Deficient Applications





The City reserves the right not to notify and/or advertise development applications that in its opinion are deficient. A deficient development application is one that is indecipherable and/or in no way considers the City's planning controls.

## Appendix A - Development that is notified for 14 Days

All properties within a 25m radius measured from the boundary of the development application site are to be notified.



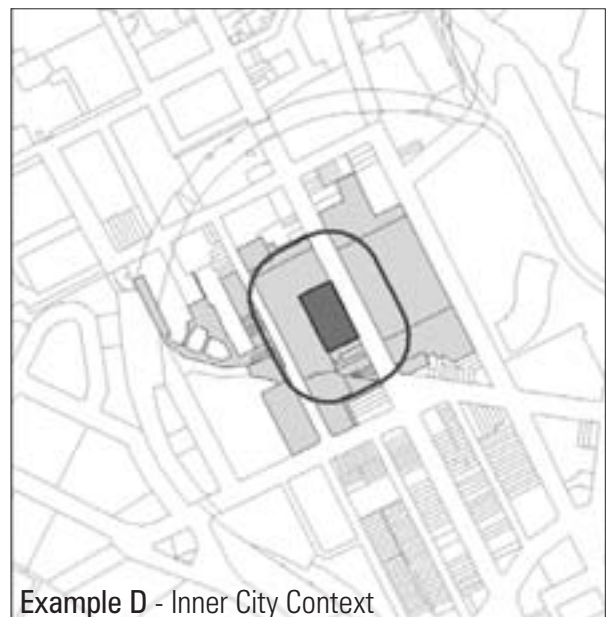
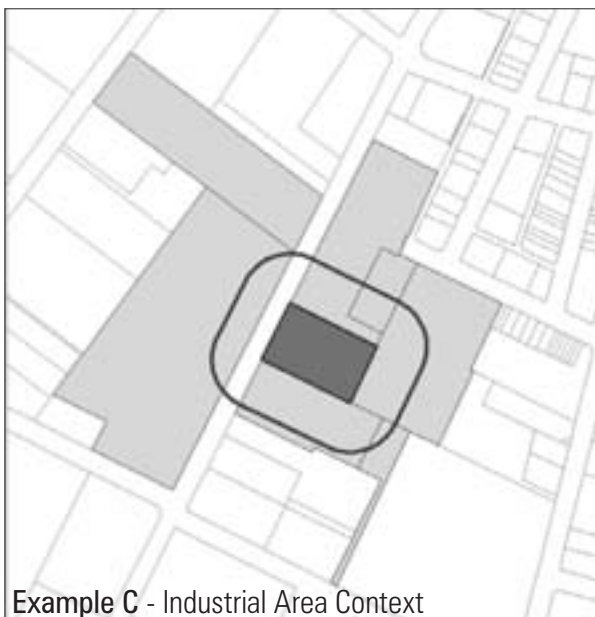
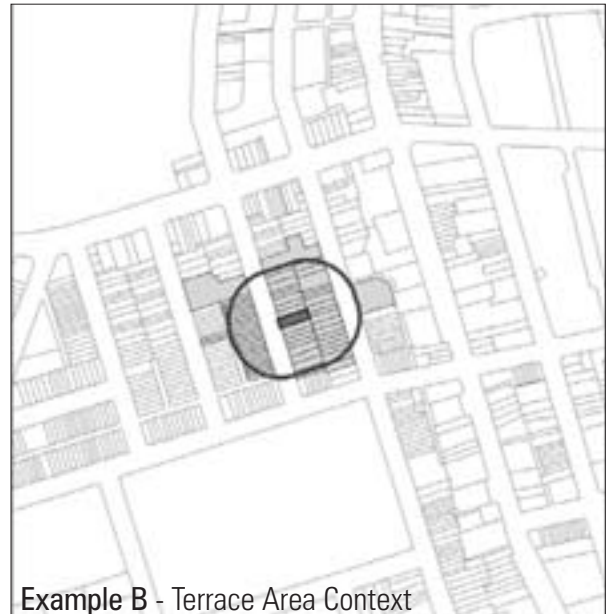
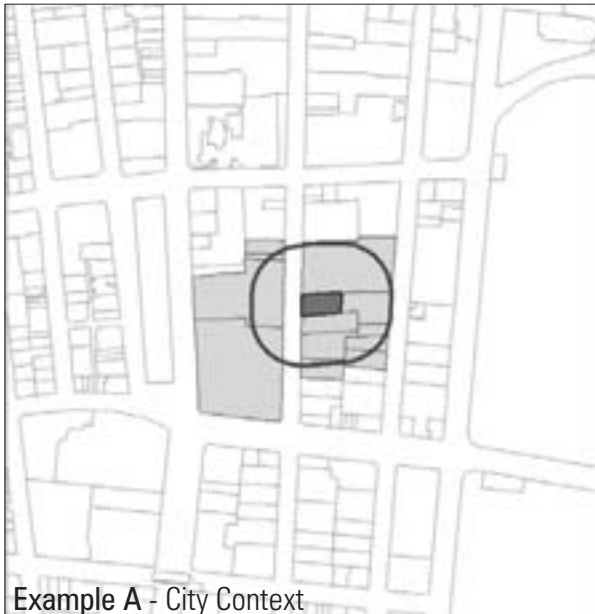
**Legend**

-  Site subject to development application
-  25 Metres buffer
-  Properties Notified
-  Property







## Appendix B - Development that is advertised and notified for 21 Days

All properties within a 50m radius measured from the boundary of the development application site are to be notified.



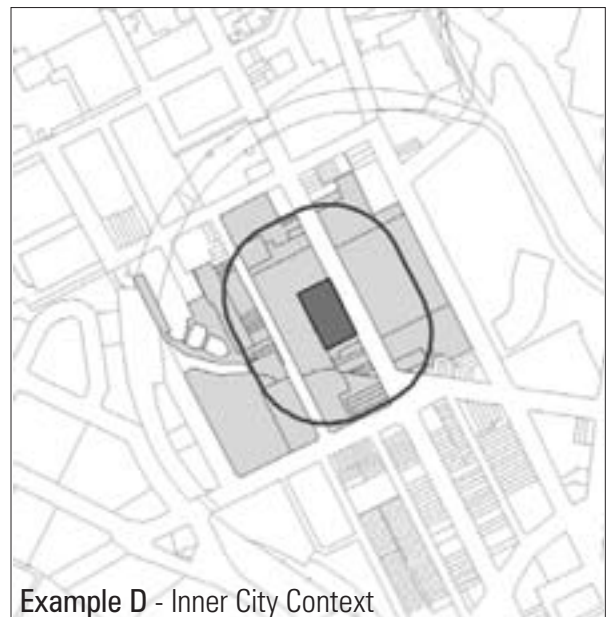
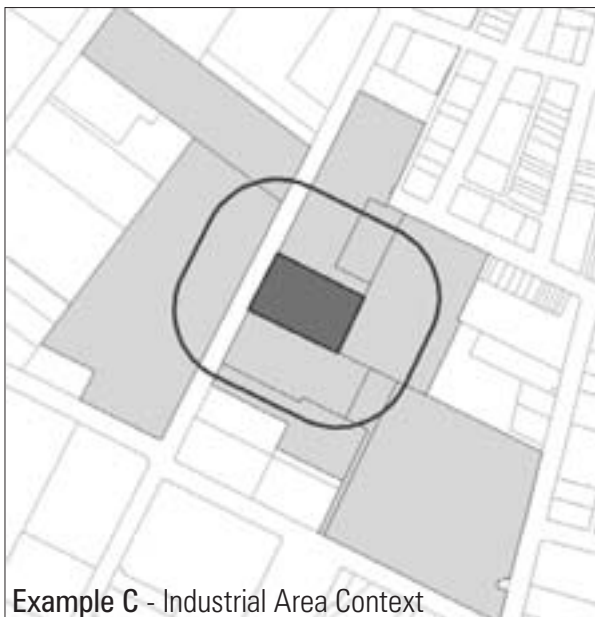
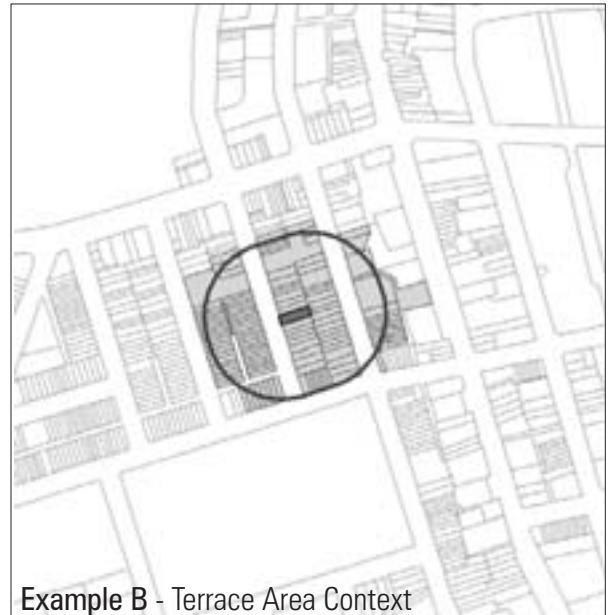
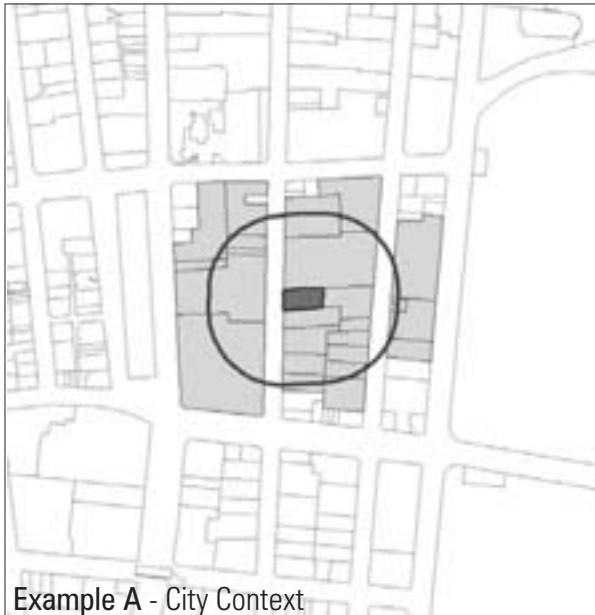
**Legend**

-  Site subject to development application
-  50 Metres buffer
-  Properties Notified
-  Property





0 70 140 280 Metres

## Appendix C - Development that is advertised and notified for 28 Days

All properties within a 75m radius measured from the boundary of the development application site are to be notified.



**Legend**

-  Site subject to development application
-  75 Metres buffer
-  Properties Notified
-  Property



## Appendix D - Council delegations

- Determination of applications for development consent under the Environmental Planning and Assessment Act 1979 involving the erection of a building of more than three storeys;
- Determination of applications for development consent under the Environmental Planning and Assessment Act 1979 where a request is made by Councillors for the development application to be the subject of a report to Council, through the Planning Development and Transport Committee, provided that:
  - The request must be in writing (email acceptable) to the Chief Executive Officer, from 3 or more Councillors; and
  - That prior to lodging the request the relevant Councillors must firstly consult with the Chief Executive Officer or Director of Planning regarding any public objections received, and consider whether or not such objections are well founded, may be satisfied by the imposition of conditions or by the amendment of the application, as advised by the Chief Executive Officer or Director.
- Determination of applications for approval to demolish a heritage item but this does not prevent works modifying a heritage item in accordance with a development consent;
- The award of Heritage Floor Space;
- Determination of applications for approval to demolish a residential building except where it is to be replaced in accordance with a development consent;
- Determination of applications for consent or approval which involve a variation under s82 of the Local Government Act 1993 of a prescribed standard or a Council policy;
- Determination of applications for approval to construct a bridge or tunnel.