

TITLE: [PR-CM] Draft Development Control Plan (DCP) Section A1 - Residential and Tourist Development Code

SUBMITTED BY: Planning Reforms

FILE REFERENCE: GT1/DCP/A1



Supporting Community Life

SUMMARY OF REPORT:

The "*Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Dwelling Houses, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools, Tennis Courts*" was first adopted by Council on 23 April 2008. A review of this document has been ongoing over the last 24 months.

Low scale residential development is the most common form of development within the Tweed Shire, and has the potential to significantly impact on the character of its various areas of settlement. In order to ensure that amendments to the house development code result in the forms of housing that are appropriate to the character of the Tweed and meet the expectations of the Tweed community, extensive consultation has been undertaken. This involved the preparation of six discussion papers which explained emerging issues with housing and offered a range of options for amending the DCP Section A1.

The feedback received through this consultation process has informed the preparation of the draft revised *Development Control Plan Section A1 - Residential and Tourist Code - Part A - Dwelling Houses, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development*.

This report provides a summary of the consultation to date, key changes to the structure and content of the draft DCP Section A1 and seeks Council's endorsement to place the draft DCP Section A1 Parts A and B on public exhibition in accordance with Sections 18 and 19 of the Environmental Planning and Assessment Regulation 2000.

RECOMMENDATION:

That Council endorse:

- 1. The draft *Tweed Development Control Plan Section A1 - Residential and Tourist Code Part A – Single Dwellings, Dual Occupancy, Secondary Dwellings, Alterations and Additions and Ancillary Development and Part B – Town Houses and Row Houses* be placed on public exhibition for a minimum period of 28 days; and**

- 2. Following public exhibition a further report addressing all submissions is to be submitted to Council.**

REPORT:

Background

Consultation to inform the review of *Tweed Development Control Section A1 – Residential and Tourist Development Code Part A – Single Dwellings, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools, Tennis Courts* (DCP A1 Part A) has been ongoing over the last 24 months. Initially an industry and community breakfast forum was held in September 2010. An issues paper was distributed at the forum highlighting some of the emerging issues and sought industry and community feedback on the current single dwelling controls on 'what is working and what is not', how new dwellings relate to the sites opportunities and constraints and how they present in the streetscape.

There is a direct relationship between dwelling design, how it responds to the site and context, and how that in turn contributes to neighbourhood and locality character. The design of housing and ancillary development, being the most common form of development within the Tweed has the potential to significantly impact the character of the Tweed.

An ongoing consultative approach has been used to seek community input and inform the review and draft amendments of DCP A1 Part A. Based on feedback received from the initial breakfast meeting of September 2010 and further in house analysis of the issues, a range of discussion papers were prepared. These discussion papers sought to engage the community and industry on how they wanted housing in the Tweed to look and to find out what the community perceived to be the issues with housing. Consultation on the discussion papers was undertaken in two stages.

The first stage consultation occurred from 12 September 2011 through to 15 October 2011 on the following discussion papers:

- Designing in Context;
- Sloping Sites – Managing Cut and Fill;
- Landscaping, Deep Soil Planting Zones and Outdoor Areas; and
- Small Lot Housing.

The second stage of consultation occurred from 14 May through to 12 June 2012 on the full suite of 6 discussion papers, which also included:

Building Envelopes; and
Ancillary Structures

The discussion papers addressed specific issues identified for review in the DCP and provided a summary of:

The objectives and controls.

What they seek to achieve.

How is the housing market meeting or responding to these objectives and controls?

Is the finished housing outcome meeting the objectives?

Is the finished housing outcome meeting the owner and neighbour expectations?

Is the finished housing outcome integrating with the site and the neighbourhood?

Options for amendment.

Based on consultation feedback, a working draft DCP A1 Part A was workshopped with internal staff (29 August 2012) and at an Industry Breakfast (19 September 2012) to further refine the draft amendments.

During this period Council resolved, on 18 January 2011, that:

“Council brings forward a report on the implications on developing a policy that small lot housing should only be approved only where they back onto green spaces.”

A discussion paper on small lot housing outlining a range of issues and options was included with the DCP A1 Part A consultation information including proximity to open space. Small lot housing is a form of low scale residential housing appropriately captured in Part A of the DCP. It provides an alternative and contributes to the diversity of housing choice. As such small lot housing has been included within the wider DCP A1 review and the implications discussed within this report.

The DCP A1 has been in place for four years. Best practice review of the effectiveness of a DCP is desirable every five years to ensure the currency of a DCP. The review of the Code was endorsed in the Planning Reforms work program of 2012/13 and the project is listed within the current operational plan.

Consultation

In order to engage to community and industry the consultation included a public forum on the “Your Say Tweed” website during both consultation periods. The website included discussion forums and a survey form for each of the discussion papers. A total of 299 discussion papers were downloaded, the most frequently downloaded being *Designing in Context* (89 downloads). The number of completed surveys varied for each of the discussion papers, ranging from 41 for *Designing in Context* to 5 for *Building Envelopes* and *Ancillary Structures*. A total of 20 written submissions were also received in response to the public consultation.

A full summary paper on the surveys and written submissions is included in Attachment 1.

Whilst comments and opinions on character and specific controls varied, the community and industry feedback can broadly be summarised as follows:

- Greater flexibility through performance based controls rather than highly prescriptive controls is supported.
- Designing to suit the climate and context is strongly supported.
- Greater emphasis on site analysis to support more flexible controls is supported.
- Generally the community and industry support allowing individual character of housing whilst still considering and respecting the locality and neighbourhood character.
- Consideration of character is equally important in established and new development areas.
- Designing to suit slope and maintaining the natural topographic character of the Tweed is strongly supported. Feedback indicated that significant cut and fill when creating new housing estates is not supported.
- Linking structural design controls to slope was strongly supported.

- Strong support that private landscaping contributes to the character of the Tweed and is an important part of the overall development of a site.
- Mixed opinions about whether formalised and outdoor rooms are part of and could replace the traditional rear yard landscaping.
- A greater diversity of housing types and affordability levels, including small lot housing, is strongly supported, however there was mixed feedback about how compatible small lot housing is with the Tweed housing character and where these forms of housing should be located.
- Correlation between the DCP A1 and the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Code SEPP) is strongly supported.

Draft DCP A1 Part A

The community and industry feedback on the discussion papers has informed the planning and design directions and the drafting of the amendments to the draft DCP A1 Part A, provided in Attachment 2.

To aid the understanding of the amendments, additions and amendments to the draft DCP have been included as red text. It is proposed that the draft DCP A1 Part A be exhibited in this manner.

The DCP A1 Part A review has resulted in a range of amendments. A summary of the key amendments includes:

Performance based controls

Feedback on the discussion papers supports greater flexibility of the controls. A performance based plan, rather than a prescriptive plan, allows for more innovative responses to the unique characteristics of individual locations and sites. The draft DCP A1 has been amended to remove reference to mandatory controls and structure the use of the DCP as follows:

- A hierarchy of best practice “planning and design principles”, a range of “objectives” to achieve desired outcomes, and “controls”.
- The controls provide guidance and possible solutions. Application of the DCP provides flexibility that should the controls not be achievable, or there is a better design solution, the application must demonstrate that the alternative solution meets the “objectives” and the “planning and design principles”. This must be evidenced through a detailed site analysis.

The success of a performance based plan is heavily reliant on an understanding of the site and its context through preparation of a site analysis and demonstration of how the housing selected or designed responds to the site analysis. As such a site analysis will be required for all development.

Incorporation of granny flat (secondary dwelling) and dual occupancy controls within Part A

DCP A1 Part A applies to single dwellings, alterations and additions to dwelling houses and ancillary development. Dual occupancy and granny flat development is currently controlled through Part B. The controls applying to single dwellings, dual occupancy and granny flats contain extensive duplication within Parts A and B. In addition single dwelling, dual occupancy and granny flat development are largely of a similar low residential scale.

Dual occupancy and granny flat development has been removed from Part B and included within draft DCP A1 Part A in order to consider similar forms of development together. The provisions for granny flats have been amended consistent with the exhibited draft Local Environmental Plan (LEP) 2010 allowing 20% of the total floor space of both the main dwelling and the granny flat or 60sqm, whichever is the greater.

Part B and C apply to medium and higher forms of density and are proposed to be reviewed at a later stage. No other amendments have been made to Part B. Given the removal of dual occupancy and granny flat controls from Part B, it is proposed that Parts A and B will both be exhibited. The update Part B is provided in Attachment 3.

Correlation with the Code SEPP

The introduction of the Code SEPP in 2008 and subsequent expansion to apply to urban and rural housing introduced controls that are inconsistent with some of the current DCP A1 controls. Consistency between the DCP A1 and Code SEPP, particularly in regard to lot size and frontage categorisations, will improve the usability of working between both the DCP A1 and the Code SEPP. The draft DCP A1 Part A has removed controls which are inconsistent with what may be undertaken as either exempt or complying development. Under the Code SEPP

Controls for building height, setbacks, and landscaping and site coverage have been converted to a table format based on the lot size and frontage categorisations correlating with the Code SEPP.

Lot sizes from 200m²

The Tweed demographics forecast that lone person households are expected to make up one third of all housing within the next 20 years. Good locality planning provides a range of housing types, tenures and sizes in order to ensure a diverse and sustainable community. A range of housing types and sizes allows students, young couples, families and the elderly the opportunity to remain and be housed within their community.

Allowing greater diversity of housing and encouraging housing affordability is strongly supported through the consultation feedback. However, there are mixed opinions about how compatible small lot housing is with the Tweed housing character and where these forms of housing should be located.

Locality planning follows planning principles whereby small lot housing forms are suitably located with walkable access to shops, services, transport nodes and recreational areas. This planning approach seeks to reduce the reliance on vehicles, the demand for vehicle parking and improve the efficiency of transport, infrastructure and services. Locality planning does not imply that small lot housing should immediately adjoin these facilities, but should be within a walkable distance.

In addition to location, small lot housing raises a number of dwelling amenity design issues which have been included in the Planning and Design Principles within draft DCP A1 Part A. These include greater design attention to garaging, orientation, privacy, sun light and ventilation.

The application of small lot housing will generally be through detailed assessment as part of locality plans.

Consistent with the provisions of the Code SEPP, the draft DCP A1 Part A has been amended to allow for development on lot sizes from 200m².

Cut and fill

The availability of flat and flood free land in the Tweed is rapidly diminishing and new residential land development is more frequently occurring on sloping land.

Recent trends, permitted under the provisions of DCP Section A5 – Subdivision Manual, are characterised by re-contouring of land to remove the slope and create allotments that will, when combined with existing DCP A1 cut and fill provisions on a 10 degree slope, facilitate single slab on ground construction. Effectively sloping sites are being modified to make “flat” sites. Whilst a degree of re-contouring is necessary, the compounding effects of the DCP Sections A5 and A1 are significantly altering the Tweed’s topographical character and giving rise to allotment interface issues including visually intrusive inter-allotment retaining walls, overlooking, overshadowing and drainage impacts.

For the topographical character of the Tweed to be maintained, as strongly supported through the consultation, housing construction methods will need to evolve and be more responsive to the needs of sloping sites. The notion that houses should respond to the slope rather than the slope being extensively modified to accommodate houses received widespread support.

Draft DCP A1 Part A seeks to provide flexibility to allow greater cut and fill within the building footprint, allowing design innovation for houses on steeply sloping sites, whilst minimising the amount of cut and fill pushed to the allotment boundaries and therefore minimising the need for, and the size of, inter-allotment retaining walls. The draft DCP A1 Part A links construction types to slope to encourage the level changes to be taken up within the building footprint rather than at the allotment edges where the interface issues are occurring.

It is important to note that DCP A1 is limited in application to the construction of a dwelling, after subdivision and bulk earthworks have occurred. The visual impacts on the Tweed are also occurring through bulk earthworks carried out under the DCP Section A5. As there is a direct relationship between these sections of the Tweed DCP and it is recommended that a review of DCP Section A5 should also be undertaken to more fully address the cumulative impact of subdivision and individual construction earthworks.

Landscaping / deep soil zones / site coverage

The draft DCP A1 Part A has consolidated and simplified landscaping, deep soil zones and impermeable surface areas. The draft DCP A1 Part A retains the requirements for landscaping and a deep soil zone, however, provides greater flexibility to locate these areas with best solar access or in response to site conditions.

The draft DCP A1 Part A replaces the impermeable surface area controls with a site coverage requirement, which is also consistent with the Code SEPP.

Ancillary development

Carpports, fences and swimming pools are frequently the subject of development application variation requests. The draft DCP A1 Part A has been amended to:

- Permit double carports, consistent with what is permitted under the Code SEPP, and allow them forward of the building line, subject to conditions;

- Permit swimming pools in front and side yards, subject to conditions; and
- Has revised the fence controls consistent with the Code SEPP and to respond to allowing swimming pools in the front and side yards.

Definitions

The draft DCP A1 Part A has been amended to remove definitions inconsistent with the Standard Instrument (Local Environmental Plans) Order 2006 (SI LEP) and the Code SEPP. This will ensure the DCP A1 definitions will not need to be amended following making of the Tweed Shire LEP under the SI LEP (anticipated early/mid 2013). Given that the Draft Tweed LEP 2010 has been publicly exhibited, development assessment already gives consideration to the definitions of the SI LEP.

Fact sheets

In order to assist future home builders understand and make more informed decisions about site planning and house selection or design a suite of fact sheets has been prepared, covering the topics of:

- Understanding the Planning process
- Understanding Your Site
- Designing for Tweed's Climate
- Working With Sloping Sites
- Planning Your Internal Spaces
- Building Materials
- Landscaping
- Small Lot Housing

It is proposed that the fact sheets be exhibited with the draft DCP A1 Part A.

DCP Section A1 Part B Town Houses and Row Houses

No changes or amendments have been made to DCP Section A1 Part B other than the removal of the dual occupancy and granny flat provisions. Notwithstanding, the DCP A1 Part B has effectively been amended and as such it is proposed that the revised Part B be placed on public exhibition along with the Draft DCP A1 Part A.

Public exhibition

The draft DCP A1 Part A has been prepared such that additions and amendments are included in red text. This does not comprehensively represent all changes to the DCP as the structure has been amended and some text deleted; however, the use of black and red text is used to assist the general understanding of what has changed from the current DCP Section A1 Part A.

The exhibition is to be supported by a range of fact sheets and the summary of submissions received on the discussion papers.

It is proposed the draft DCP A1 Part A and Part B be publicly exhibited for a minimum 28 days in accordance with Section 18 of the Environmental Planning and Assessment Regulations 2000.

OPTIONS:

1. Council endorse the public exhibition of the draft DCP A1 Part A and Part B; or

2. Council determines that the draft DCP A1 Part A be deferred for further consideration prior to public exhibition.

CONCLUSION:

The review of the *Development Control Section A1 – Residential and Tourist Development Code Part A – Single Dwellings, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools, Tennis Courts* has been undertaken with extensive and ongoing community and industry consultation to ensure amendments are in line with community opinion and expectations on housing.

The draft DCP A1 Part A incorporates structure changes that introduce greater flexibility through a performance based rather than prescriptive based development control plan. In association with this change the draft DCP A1 places a strengthened requirement on the submission of a site analysis plan.

Amendments to the controls are in response to ensuring the DCP correlates with the provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Code SEPP) and the feedback from community and industry in response to the suite of discussion papers.

It is recommended that the draft DCP A1 Parts A and B be publicly exhibited for a minimum 28 days and a report on the draft DCP A1 be submitted to Council following completion of the public exhibition period and assessment of submissions.

COUNCIL IMPLICATIONS:

a. Policy:

The proposed changes to the Draft DCP A1 should bring a closer correlation with the expectations of the community and the development/building industry in terms of future, small scale residential developments.

b. Budget/Long Term Financial Plan:

The review of DCP A1 is included in the current financial year budget.

c. Legal:

Not Applicable.

d. Communication/Engagement:

Involve/Collaborate - We will work with you on an ongoing basis to ensure your ideas, concerns and aspirations are considered. We will provide feedback on Council's decisions.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Supporting Community Life
- 2.2 Improve opportunities for housing choice
- 2.2.1.1 Investigate appropriate building typologies and construction methods that foster environmentally sensitive site design and good urban design practice.
- 2.2.1.1.1 Investigate and conduct review of Tweed Development Control Plan 2008 – Section A1

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

- Attachment 1 Development Control Plan (DCP) A1 Consultation Summary and Nexus to draft DCP Amendments, September 2012 (ECM 57316108)
 - Attachment 2 Draft Development Control Section A1 – Residential and Tourist Development Code Part A – Single Dwellings, Alterations and Additions, Dual Occupancy, Secondary Dwellings and Ancillary Development (ECM 57551949)
 - Attachment 3 Draft Development Control Section A1 – Residential and Tourist Development Code Part B – Town Houses and Row Houses (ECM 57317116)
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