



# Nature Conservation Council

The voice for nature in NSW

Department of Planning and Environment  
320 Pitt St  
Sydney NSW 2000

6 December 2018

## **NCC SUBMISSION ON DRAFT COMMUNITY PARTICIPATION PLAN**

Dear Sir/Madam,

The Nature Conservation Council of New South Wales (**NCC**) is the state's peak environment organisation. We represent over 150 environment groups and thousands of supporters across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

### **INTRODUCTION**

We welcome the opportunity to provide feedback on the Department of Planning and Environment's Draft Community Participation Plan. Our members and supporters have a strong interest in planning decisions that affect the environment and their local communities.

Genuine and meaningful community engagement has the benefit of empowering local communities, utilising local knowledge and improving decision making by assisting decision makers to identify public interest concerns. It also promotes community 'buy-in' of decisions which can reduce potential disputes and can help to ensure fairness, justice and accountability in decision making. Members of the wider community often have invaluable insights and information regarding the potential impacts of proposed change based on expertise and local knowledge; this should be acknowledged, respected, and welcomed as an important contribution to long term decision making that is in the interest of communities.

We often receive feedback from the community that engagement in planning decisions is poorly undertaken and tokenistic, and that community input has no real influence on decision makers or outcomes. In recent years, the community has become frustrated with planning processes that have seen highly impacting development such as coal mines, infrastructure projects and urban renewal projects given the green light with little regard for concerns raised by the public and the impacts on the environment and communities.

Our organisation and other environment groups have been calling for improvements in community engagement for many years<sup>1</sup>. We are pleased that new provisions have been inserted into the *Environmental Planning and Assessment Act 1979* (EPA Act) that include community participation principles and requirements to prepare community participation plans. While these new provisions can provide a framework for improved community engagement, what is really needed is a significant shift in the culture of community engagement.

We recognise that the Department has undertaken a number of steps to improve its community engagement in recent years, including increasing the capacity of its community engagement team and employing new methods of community engagement. We have received feedback that an increased focus on community engagement, for example Department meetings with community members in the Hunter region, has been welcomed. However, it is more common to receive feedback from our members and the community relating to the poor experiences they have had engaging with the planning system and planning authorities.

Key concerns raised include:

- Consultation is seen as tokenistic and ‘tick the box’.
- Inadequate engagement - there are concerns that the Department simply ‘tells or informs’ rather than genuinely ‘engages’ the community.
- Consultation does not lead to outcomes (i.e. people do not feel that their input influences decisions).
- There are strong perceptions that other stakeholders (mainly industry and those with vested interests) have a stronger influence on decisions than the community.
- Politics plays a major role, and engagement won’t lead to changes in outcomes if political deals have already been made. This is exacerbated by concerns that the Department has to implement the Government’s political agenda, so no amount of engagement can influence decisions.
- Inadequate consultation periods – planning is complex, people do not have time and capacity to understand and interrogate information.
- There are too many process happening at the same time (again, people do not have time and capacity to understand and interrogate information and respond within time frames)

In our own experience, NCC often contributes significant resources to engaging in government consultation processes, but rarely sees our recommendations adopted, or our engagement leading to improved outcomes for the environment or additional further productive dialogue and engagement.

While the Draft Community Participation Plan is a positive step towards improving community engagement in planning decisions, the real test will be to see whether the concerns of NCC and our members are overcome by the implementation of new community participation plans and on-ground application of the community participation principles set out in the EPA Act.

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<sup>1</sup> See for example, EDO NSW and Total Environment Centre, [Reconnecting the Community with the Planning System](#), August 2010; see also Nature Conservation Council of NSW, Total Environment Centre and EDO NSW, [Our Environment, Our Communities - Integrating environmental outcomes and community engagement in the NSW planning system](#), 2012; see also the Better Planning Network [Community Charter for Good Planning in NSW](#), 2014

## COMMENTS ON DRAFT COMMUNITY PARTICIPATION PLAN

The Draft Community Participation Plan provides a high-level explanation on how the Department, Minister and Secretary will engage the community in exercising their planning functions.

There is a real risk that the community will perceive the Draft Plan as simply another ‘empty gesture’ from the Department that will not need lead to improved outcomes. Again, it will take time and real cultural change on the ground for the community to be convinced that community engagement is genuine and worth their time.

Below we outline some specific comments on the Draft Plan:

- **Secretary’ message**

It is unclear reading the Secretary’s message on page 4 that the Draft Plan applies to decisions of the Minister and Secretary, as well as functions carried out by the Department. While this is explained in more detail on page 6, it could be made clearer in the Secretary’s message.

- **Why community participation is important**

Page 5 includes a text box outlining why community participation is important. The second dot point reads: *“Community participation creates a shared sense of purpose, direction and understanding of the need to manage growth and change, while preserving local character”*.

This appears to be very narrow and suggests that the only concern of communities is preserving local character. We suggest broadening the language in this second dot point to encompass the range of issues that may be raised during community consultation. For example: *“Community participation creates a shared sense of purpose, direction and understanding of the need to manage growth and change, while delivering positive outcomes for the environment and communities including preserving local character, conserving natural landscapes and ecosystems and promoting health and wellbeing”*

- **Community participation is easy**

We suggest adding a new dot point to Table 2 on page 8, under the row titled ‘Community participation is easy’ that acknowledges the various ways in which the community can engage. For example: *“The community is able to engage in a variety of ways including written submissions, online surveys, and speaking with planning teams and forums and events”*

- **Table 3: Community participation approach**

‘Table 3: Community participation approach’ aims to outline different approaches to community participation. The table is slightly confusing as it appears the ‘when’ column follows linear stages of a planning process, with ‘engage’ done towards the end of the process. This seems to contradict the Department’s intention, expressed elsewhere in the Draft Plan, that the Department will engage the community as early as possible in planning processes.

We believe the Department’s intention is to outline the different scenarios in which different scales of engagement will apply (and this may reflect legal obligations – for example, in some instances the Department is simply required to notify, in others instances it is required to

publically exhibit etc.). Consideration could be given to revising Table 3 to better convey this, and remove the perception that engagement only occurs towards the end of planning processes.

The Plan could also formalise opportunities for earlier engagement, incorporating some of the work that has been done through the EIA Improvement Process (e.g. community input on Secretary's requirements, requirements for proponent to engage community early in project planning etc.).

- **Reasons for decisions**

The Plan indicates that decision makers will provide reasons for decisions. This should be done in all circumstances, and not just when legally required. Reasons should be provided at the time of the decision (and not just in a separate report, e.g. summary of community engagement, after the decision).

The Department has also expressed its desire to improve its feedback mechanisms to the community (closing the loop). This could be formalised better in Table 2 and Table 3 of the Draft Plan.

- **Exhibition timeframes** (page 13)

We have repeatedly raised concerns with the short timeframes provided for community participation. While most mandatory timeframes are expressed as minimums, the Draft Plan must recognise that effective community engagement requires significantly greater timeframes for public input.

Planning material is lengthy and complex. In the case of major projects, proponents often take months or years to prepare environmental impact statements, and it is unjust to expect the community to interrogate and respond to the information in 28 days. Individuals and community groups that engage in planning processes often do so on a voluntary basis and do not have the same capacity (time, resourcing, skills etc.) as do proponents or government agencies.

In addition to increasing consultation timeframes, consideration should also be given to supporting the community to properly interrogate and engage with the information available, whether that is through resourcing or access to experts.

## **OTHER OPPORTUNITIES FOR IMPROVING COMMUNITY ENGAGEMENT**

We also take this opportunity to suggest additional ways in which the Department can improve community engagement and the community's experience with the planning system.

- **Improve relationships with local community groups**

Many local environment groups regularly engage with the planning system in an effort to protect and conserve local wildlife, habitats and landscapes. The Department could invest in regular engagement with these groups to better understand their work, utilise their knowledge and strengthen stakeholder relations.

- **Resourcing**

The Department could continue to invest in its community engagement team and consider options for financially resourcing key community groups to engage in certain planning processes.

- **Improve the integrity of environmental impact assessment statements**

Community engagement will continue to be undermined while the community has little trust in the environmental impact assessment process. NCC has repeatedly raised concerns that while consultants continue to be directly engaged and paid for by proponents there is the risk of bias, undue influence and unethical practices. We believe the most effective way of ensuring the integrity of environmental impact assessments is to break the financial nexus between the developer and environmental consultants<sup>2</sup>.

Please do not hesitate to contact Cerin Loane, Policy and Research Coordinator, on (02) 9516 1488 or [cloane@nature.org.au](mailto:cloane@nature.org.au) should you require any further information.

Yours sincerely,



Kate Smolski  
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<sup>2</sup> See NCC Annual Conference Minutes 2015, Motion B3, available at [www.nature.org.au/about/governance/annual-conferences/](http://www.nature.org.au/about/governance/annual-conferences/)