

Post Exhibition – Draft Community Participation Plan

File No: X025554

Summary

The draft Community Participation Plan has been prepared to satisfy the City's obligations under the *Environmental Planning and Assessment 1979* (the Act) to have a plan in place by 1 December 2019. It is an administrative change to transfer existing advertising and notification procedures for development applications from the Sydney Development Control Plan 2012 (the DCP). It also incorporates the consultation requirements set by legislation for strategic planning matters, such as planning proposals and draft development control plans.

The Community Participation Plan is a single document that sets out all of council's community participation requirements under planning legislation, including minimum public exhibition timeframes. It applies to planning proposals, contributions plans, draft development control plans, planning agreements, environmental impact assessments and development applications. The Community Participation Plan only deals with planning matters under the Act. The draft Community Participation Plan contains the City's existing community participation procedures as set out in the Act and the DCP.

The draft Plan was approved for public exhibition on 9 September 2019 and exhibited for 28 days from 13 September to 11 October 2019.

No changes to the draft Community Participation Plan are proposed following public exhibition and the Plan is recommended for adoption. Issues raised in submissions have been considered and are addressed either in the City's Community Engagement Strategy 2019, by updating the City's website or are noted for future community consultation.

The City's existing advertising and notification procedures will continue to be used as an interim measure which provides additional time for the City to conduct a review of those procedures in consultation with the community, ensuring their views help to shape future community engagement policy and processes related to planning.

Recommendation

It is resolved that:

- (A) Council note the matters raised in response to the public exhibition of the draft Community Participation Plan;
- (B) Council approve the draft Community Participation Plan as shown at Attachment A to the subject report;
- (C) Council approve the draft Sydney Development Control Plan 2012 - Community Participation Plan Associated Changes as shown at Attachment B to the subject report; and
- (D) authority be delegated to the Chief Executive Officer to make any minor variations to the draft Community Participation Plan to correct drafting errors prior to the finalisation of the plan.

Attachments

- Attachment A.** Draft Community Participation Plan
- Attachment B.** Draft Sydney Development Control Plan 2012 - Community Participation Plan Associated Changes
- Attachment C.** Summary of Submissions

Background

1. In March 2018, the NSW Government amended the Environmental Planning and Assessment Act 1979 (the Act). The changes were part of reforms designed to simplify the NSW planning system and make it more accessible to the general public. As a result of these changes, Council is required to prepare and adopt a Community Participation Plan by 1 December 2019.
2. The draft Community Participation Plan relates to planning matters only, and must describe the City's community participation requirements under planning legislation. This includes all minimum mandatory exhibition timeframes for:
 - (a) Strategic planning - local strategic planning statements, local environmental plans, development control plans, contributions plans, community participation plans and planning agreements; and
 - (b) Statutory planning - development applications and environmental impact assessment functions.
3. The Community Participation Plan is intended to work in conjunction with the City's existing Community Engagement Strategy 2019, which details the City's broader community engagement approach including community participation objectives, guiding principles, methods, activities, evaluation and reporting.
4. Currently, the Act and the Environmental Planning and Assessment Regulation 2000 (the Regulation) set out how the City must engage the community on strategic planning matters such as plan-making, planning proposals and voluntary planning agreements.
5. For statutory planning, the City's approach to the public exhibition and notification of development applications, including minimum legislative requirements, are contained in Schedule 1 of the Sydney Development Control Plan 2012 (DCP 2012).
6. This draft Community Participation Plan has been prepared to satisfy the City's obligations under the Act to have a plan in place by 1 December 2019. It is a transfer of existing advertising and notification procedures for development applications from DCP 2012. It also incorporates a statement of mandatory advertising and notification procedures for strategic planning matters as set by legislation.
7. This approach is consistent with guidance from the NSW Department of Planning, Industry and Environment that the expectation is for councils to transfer community participation requirements from development control plans to the community participation plan.
8. The draft Community Participation Plan is an administrative change to satisfy our legislative obligations, giving the City time to undertake thorough consultation with the community and inform a review of consultation on planning matters.
9. This report also seeks council approval to amend Sydney DCP 2012. With exhibition and notification processes for development assessment transferred from Schedule 1 of DCP 2012 to the Community Participation Plan, Schedule 1 of DCP 2012 must be repealed. The Draft DCP is at Attachment B.

Public exhibition

10. The Draft Community Participation Plan was exhibited from 13 September to 11 October 2019.
11. Relevant documents were made available on the 'Sydney Your Say' website and at the One Stop Shop at Town Hall House. The City also notified 56 resident action groups and other community groups via email.
12. The exhibition was notified in the Sydney Morning Herald, through the City's website and the 'Sydney Your Say' e-newsletter.
13. A total of four submissions were received. Issues raised are discussed below.

Lodgement and notification of development applications (DAs)

14. Submissions to the draft Community Participation Plan provided some suggestions and recommendations concerning the lodgement and notification of DAs. Concerns were raised about DAs being lodged and notified over the December and January period, accepting and notifying deficient DAs and the process of the City placing onus on the community to check for DAs weekly, thereby receiving a low number of responses. A comment was also made suggesting DAs should be notified to surrounding residents and workers via email notification.
15. One submission suggested the City should reject applications lodged around Christmas/New Year, and recommended that should any be accepted during this time, their exhibition period be tripled in length.
16. The City cannot refuse to accept adequately made development applications over the Christmas/New Year holiday period. Planning law recognises that additional time is required for the exhibition of DAs during this time, which is achieved by excluding 20 December to 10 January from the calculation of a period of public exhibition.
17. The City's policy detailed in the draft Community Participation Plan is consistent with this requirement. This means the exhibition period of a DA lodged during this period could be extended by up to 21 days. It is considered that planning law and the City's policy provide sufficient time for the public to make submissions over the holiday period. Extensions to the exhibition period can also be requested.
18. One submission recommended the City should not accept DAs which are deficient and do not comply with existing legislative requirements and planning controls under the Local Environmental Plan 2012 (LEP) and Development Control Plan 2012 (DCP), as it would save the community time in identifying issues with and challenging the DA.
19. In some instances, the City does not accept DAs at lodgement when it is evident the application is illegible, unclear and / or severely lacking in relevant information required for assessment. There is a distinction between rejecting deficient DAs and assessing non-compliant DAs.
20. The City is required to accept development applications that may not comply with relevant planning controls, if the application is complete. Such applications are required to be notified in accordance with procedures set out in the draft Community Participation Plan. This provides local property owners, residents and the public with an opportunity to review the application and make a submission, and allows the City to carry out its planning functions in assessing the application.

21. One submission stated that by placing the onus on locals to check for DAs weekly, the City risks receiving a low number of responses from the public, and misses out on genuine local engagement for DAs. It was also recommended that DAs should be notified to surrounding residents and workers by mail, a site notice on buildings subject to a DA, on the City's website and via email notification.
22. The City's notification and advertising procedures for DAs currently include all of the above practices. The City does not notify residents and surrounding properties via email. This is due to issues including maintaining records of current residents, particularly with regard to tenants rather than owner occupiers.
23. The City sends out a weekly e-newsletter listing all new DAs on exhibition. Many DAs are also notified in local and/or metropolitan newspapers. Properties within the immediate vicinity of a DA are notified by mail. The extent of notification (a radius of 25m, 50m or 75m) depends on the scale and potential impact of the proposal.
24. The City's opt-in weekly DA newsletter is the most effective way for the community to be informed of DAs. While the City holds a database of property owners for rates purposes it does not hold information about occupants. Occupants of a property regularly change with the City having no ability to track changes. This means any database of occupants would not be comprehensive and could not be relied on for DA notification.

Technology

25. Two submissions identified the use and prevalence of technology in carrying out and participating in community engagement. Comments included:
 - (a) The emphasis given to the use of the Internet in providing opportunities for the community to share ideas, insight and feedback on projects and policies may deter those who are not computer literate, or who do not have access to such technology; and
 - (b) Paper notification and site notices on DA sites should be maintained, alongside email notification.
26. The City's Community Engagement Strategy 2019 outlines how the City consults with a wide range of people, including through a variety of panels, community networks and programs, targeted consultation activities, as well as through the notification and advertising of development applications, proposed works and draft policies and plans.
27. The City carries out various types of community engagement outside of online or digital channels, including holding public meetings, workshops, attending local weekend markets, face-to-face surveys and consulting with project-specific stakeholders. The City also provides face-to-face customer service at the Town Hall House One Stop Shop and our three neighbourhood service centres.
28. The current notification and advertising process for development applications requires letters to be mailed out to properties in the vicinity of a site subject to a DA. The extent of notification is dependent on the scale or potential environmental impact of the proposal. A site notice is also placed on the primary (and sometimes secondary) frontage of the site. DAs with more significant environmental impact are notified for longer periods of time, and are advertised in a local or metropolitan newspaper.

29. Should a member of the public wish to view a hard copy of a DA, they can visit the One Stop Shop at Town Hall House, or their local neighbourhood centre, where customer service staff can print documents and provide assistance. Submissions are generally provided in writing, either by email, or a letter, which can be posted or hand delivered.
30. The City does not rely on email notifications for DAs. The City sends out a weekly DA notification e-newsletter for those who choose to subscribe. The City provides email notification to resident action groups and other local community groups concerning strategic planning related matters, such as planning proposals, strategic plans and draft development controls, where relevant.
31. There are currently no changes proposed to notification or advertising procedures for development applications in the draft Community Participation Plan, however the City plans to review these procedures. The review process will begin with community consultation to ensure the community is involved and that their views help to shape future notification and advertising approaches.

Community engagement processes

32. Submissions provided general comments and recommendations concerning the City's overall engagement and consultation processes. Issues identified by submitters and noted by the City include:
 - (a) The potential for the City to establish a community liaison group for ongoing major projects;
 - (b) The value of initial face-to-face and general public meetings with Council;
 - (c) Seeking advice via direct communication with local community groups and wide distribution of project intent;
 - (d) The effectiveness of Internet engagement in gauging public opinion and eliciting ideas for large-scale policy development, and ensuring a mix of engagement strategies such as citizens' juries, panels and reference groups for 'big issues' and policies; and
 - (e) Providing greater detail and instruction on what a submission might include, and what information will and will not be considered by the City when it reviews submissions.
33. Many of these community engagement measures or strategies are addressed in the City's Community Engagement Strategy 2019. The comments and recommendations provided are noted and the suggestions will be incorporated into the City's broader review of community engagement processes.
34. The submission concerning better advice on the content of submissions has been noted. The relevant webpage will be updated to provide improved guidance on the matter.
35. Issues raised in submissions have been considered and are addressed either in the City's Community Engagement Strategy 2019, by updating the City's website or are noted for future community consultation. No changes to the draft Community Participation Plan are proposed.

Key Implications

Strategic Alignment - Sustainable Sydney 2030 Vision

36. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. The Draft Community Participation Plan is aligned with Direction 10 - Implementation through Effective Governance and Partnerships, as the plan:
- (a) ensures members of the community have the opportunity to participate in shaping their city, and
 - (b) ensures the community has the information, knowledge, skills and access to contribute to decision making.

Relevant Legislation

37. Environmental Planning and Assessment Act 1979.
38. Environmental Planning and Assessment Regulation 2000.

Critical Dates / Time Frames

39. The Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 clause 16 (1) requires all NSW councils to prepare and adopt a Community Participation Plan by 1 December 2019.

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