

Frequently asked questions

November 2019

These frequently asked questions on Community Participation Plans (CPPs) have been composed in response to questions put to the Department of Planning, Industry and Environment (the Department).

Community FAQs

No.	Question	Answer
General Questions		
1	What are CPPs?	<p>A CPP is intended to make it easier for the community to understand how to participate in planning matters in NSW. The requirement to prepare a CPP applies to relevant planning authorities under the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act).</p> <p>A CPP must set out how and when a planning authority will engage with its community on the planning functions it performs. Each planning authority is required to have its own CPP.</p> <p>A CPP must also set out the minimum public exhibition timeframes relevant to the planning authority that are provided in Schedule 1 to the EP&A Act. All other requirements for a CPP are set out in Division 2.6 of the EP&A Act.</p> <p>It is important to note that a CPP will describe at a high-level, how and when a planning authority engages in its planning functions. It does not outline specific engagement strategies for each type of planning proposal or project.</p>
2	What is the status of the Department's CPP?	<p>The Department exhibited a draft CPP on behalf of the Planning Minister and Planning Secretary between October and December 2018. Feedback on the draft was received through community workshops, one-on-one engagement and formal submissions. This feedback was considered before the Department's CPP was finalised.</p> <p>The Department's CPP was published on 30 November 2019.</p>
3	Does the Department's CPP cater to the different stages of all projects and proposals?	<p>The Department's CPP describes how and when it engages the community at all stages of the planning process for its planning functions. The Department's planning functions include the assessment of State significant projects and strategic functions such as the making of State Environmental Planning Policies.</p>

No.	Question	Answer
4	How will the Department monitor and evaluate its engagement against the CPP?	The Department intends to monitor and evaluate its engagement activities by reference to the measurable actions outlined for the five community participation objectives in the Department's CPP. It is intended that the community will also be able to use these actions to measure and assess the Department's community participation initiatives. Section 2.24(3) of the <i>EP&A Act</i> states that a CPP will also be reviewed periodically.
5	What is the Department's role in the implementation of the CPP measure?	In addition to the development of our own CPP, which other planning authorities can use as a template, the Department intends to assist councils and other planning authorities to develop and implement their CPPs.

CPP minimum requirements

6	What are the minimum requirements for a CPP?	The minimum requirements for a CPP include: Detail how and when a planning authority will undertake community participation when exercising relevant planning functions as specified in section 2.21 (2) of the <i>EP&A Act</i> . Have regard to the community participation principles outlined in section 2.23 (2) of the <i>EP&A Act</i> . Set out the minimum mandatory public exhibition timeframes and notification requirements for the planning authorities relevant planning functions as per Schedule 1 of the <i>EP&A Act</i> and acknowledge that there are mandatory notification requirements provided in the regulations, the <i>EP&A Act</i> and potentially a CPP. Be publicly exhibited for a minimum of 28 days. Be published on the NSW planning portal by 1 December 2019
7	Who needs to prepare a CPP?	The following planning authorities must prepare a CPP and are subject to community participation requirements: <ul style="list-style-type: none"> • The Minister for Planning, • The Planning Secretary, • The Greater Sydney Commission, • The Independent Planning Commission, • a Sydney district or regional planning panel,

No.	Question	Answer
		<ul style="list-style-type: none"> • a council, • a local planning panel, • a determining authority under Part 5, • a public authority. <p>Note: For many public authorities, except councils, the need to prepare a CPP is only triggered where they prepare an environmental impact statement (EIS) under Part 5 of the EP&A Act. This is only likely to occur when another party/body is proposing to carry out the development as in most cases these activities will be State significant infrastructure and dealt with as such under the EP&A Act. Public authorities may still wish to prepare a CPP in case such a situation should arise.</p>
8	Will a separate CPP need to be prepared for local planning panels, Sydney district or regional planning panels?	No. The councils CPP will apply to the notification of any matters referred to local and regional planning panels for determination.
9	Can councils include engagement for planning functions not listed in 2.21(2) of the EP&A Act in their CPP?	In addition to the minimum requirements for a CPP, as per 2.22(2) of the EP&A Act, a CPP may also prescribe additional mandatory requirements for community participation. Councils may also wish to outline consultation processes for planning functions that have no mandatory requirement for public exhibition. These could include planning policy initiatives or complying development where consultation is undertaken by the Department in developing the code (but not for subsequent applications for complying development certificates).
10	Do all development applications need to be exhibited for 14 days?	No. Schedule 1 of the EP&A Act states that development applications must be exhibited for 14 days unless a planning authority sets a different timeframe in its CPP or states in its CPP that for specified development applications no public exhibition is required for.

No.	Question	Answer
		<p>For example, councils may state in their CPP that no public exhibition is required where a proposal fully complies with their controls.</p>
11	<p>How can councils have regard to the Community Participation Principles?</p>	<p>When developing a CPP, planning authorities should demonstrate that they have regard to the community participation principles in Section 2.23(2) of the EP&A Act. The principles are:</p> <ul style="list-style-type: none"> The community has a right to be informed about planning matters that affect it. Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning. Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning. The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered. Community participation should be inclusive and planning authorities should actively seek views that are representative of the community. Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made. Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account). Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development. These principles are consistent with the model for engagement set by the International Association for Public Participation and represent best practice engagement for planning matters. The Department's exhibition draft CPP can be used as a template for how to demonstrate regard to the principles in the EP&A Act.

No.	Question	Answer
12	What are the different ways that councils can prepare a CPP?	<p>Councils can meet the CPP requirements in two ways.</p> <p>Option 1 – Rely on or update an existing plan (strategy) under section 402 of the <i>Local Government Act (LG Act)</i></p> <p>To reduce the need for multiple community documents, councils have the option to use an existing Community Strategic Plan (CSP) or Community Engagement Strategy (CES) under section 402 of the LG Act to satisfy the requirements of a CPP.</p> <p>In most instances it is likely that councils existing CSP or CES will need to be updated to meet the CPP requirements in Section 2.33(2) of the EP&A Act.</p> <p>When amending a CSP or CES to meet the requirements of a CPP it is recommended that a council state in the amended plan or strategy that it has been prepared to satisfy the requirements of a CPP under the EP&A Act and acknowledge which sections are being used to meet the CPP requirements. It is also important that an existing CSP or CES makes it clear that either the entirety or part of the document has been prepared to satisfy the legislative requirements for a CPP and is to be treated as such.</p> <p>The amendments to either the CSP or CES to satisfy the requirement for a CPP must then be exhibited for 28 days in accordance with the minimum public exhibition requirements for a draft CPP in Schedule 1 to the EP&A Act.</p> <p>Option 2 – Prepare a standalone CPP</p> <p>Councils can prepare a standalone CPP that addresses all the necessary requirements.</p> <p>Councils may contact the legislative updates team with any questions in relation to Option 1 and 2.</p> <p>The Department has worked closely with the Office of Local Government’s community engagement team who are briefed on the CPP requirements. Councils may also consider speaking with their Office of Local Government community engagement representatives for support on their overall engagement strategy.</p>
13	Can councils use their Development Control Plan (DCP) to meet the requirements of a CPP?	<p>No. A DCP cannot be used as a CPP even where a DCP sets out the minimum mandatory exhibition timeframes.</p> <p>Where councils have a DCP or part of a DCP that deals with community participation for their planning functions this material can be used by transferring this into their CPP. In these</p>

No.	Question	Answer
		circumstances once the CPP is made council would then be able to repeal that part of the DCP as community participation requirements will be set out in the CPP.
14	What are the options for non-council planning authorities to prepare their CPP?	All non-council planning authorities that are required to prepare a CPP must prepare a standalone CPP before carrying out any planning functions to which the CPP requirements apply.
15	Will the form, content and procedures for CPPs be prescribed in the regulations?	There is legislative scope to prescribe regulations to set the form, content and procedures for making and publishing CPPs, their amendment and reporting on their implementation. At this stage it is not intended to make any regulations in relation to the form, content and procedures.

CPP engagement and finalisation

16	What are the exhibition requirements for CPPs?	Draft CPPs, or amendments made to existing plans or strategies prepared under section 402 of the LG Act to meet the CPP requirements, must be exhibited for 28 days as set out in Schedule 1 of the EP&A Act.
17	How do public exhibition requirements in a CPP interact with public consultation conditions in a gateway determination?	<p>A CPP will set out the mandatory minimum public exhibition periods for relevant planning functions. A planning proposal subject to a gateway determination must be exhibited for a minimum period of 28 days or:</p> <ol style="list-style-type: none"> If a different period of public exhibition is specified in the gateway determinations for the proposal – the period so specified, or If the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal – no public exhibition. <p>Some community consultation requirements may be determined for a planning proposal at a gateway determination. In some circumstances this may be limited to the period of public exhibition. It is recommended planning authorities set out their community consultation approach for planning proposals in their CPP but note these may be subject to the requirements of the gateway determination.</p>

No.	Question	Answer
18	When should councils and other planning authorities start preparing their CPP?	<p>All community participation plans must be in place and published on the ePlanning portal by 1 December 2019.</p> <p>The Department recommended commencing the development of CPP's in the first half of 2019. This was to allow time for their finalisation noting the need to publicly exhibit draft CPPs for a minimum period of 28 days.</p>
19	What will happen if a planning authority fails to publish their CPP by 1 December 2019.	<p>The requirement to publish a CPP by 1 December 2019 is a statutory requirement, and the Department will work closely with planning authorities to ensure compliance. However, if a planning authority does not publish its CPP by 1 December, clause 16(2) of the Transitional Regulation requires that council must apply the mandatory community participation requirements in Schedule 1 to the EP&A Act, and where Schedule 1 refers to the requirements of a CPP reference instead should be made to the requirements contained in the former provisions of the Act that would have applied but for the amending Act. Council staff would need to be careful to ensure that the proper consultation requirements had been applied to the various planning activities of Council, otherwise it could arise in a challenge to the validity of any determination.</p> <p>It is in council's best interest and the benefit of the community and applicants to have the CPP as close to 1 December as possible.</p>
20	Does the Department need to endorse or approve a planning authority's CPP?	<p>No. Once a planning authority has developed and endorsed their finalised CPP it must be published on the NSW planning portal and does not require approval from the Department.</p> <p>A CPP will be considered valid if the plan has not been challenged in proceedings commenced in the Land and Environment Court (LEC) within 3 months of it being published on the NSW planning portal.</p>
21	How will the Department monitor and evaluate a councils CPP?	<p>To ensure compliance and consistency, the Department will undertake a review and audit of CPP's in 2020. Additionally, consideration is being given to the creation of regulations to set requirements for reporting on implementation.</p>