

This guidance material has been prepared to provide NSW councils clarification on the:

- relationship between a community participation plan (CPP) and a notification development control plan (DCP);
- planning functions that councils should include in its CPP; and
- the steps to be followed to meet the CPP requirements by the 1 December 2019 deadline.

Please direct inquiries to the Legislative Updates Team: legislativeupdates@planning.nsw.gov.au

Overview

Community Participation Plans (CPPs) are a new requirement under the *Environmental Planning and Assessment Act 1979* (the Act). A CPP will outline how and when planning authorities engage the community across their planning functions.

All applicable NSW planning authorities (including councils) will be required to have the final version of their first CPP published on the NSW Planning Portal by 1 December 2019.

What is the relationship between a CPP and notification DCPs?

Currently, councils outline community participation requirements in multiple documents including a notification development control plan and community engagement plan or strategy prepared under section 402 of the *Local Government Act 1993*. This includes information setting out specific exhibition timeframes (sometimes referred to as notification periods) for types for development applications.

The purpose of the CPP is to provide a single document that the community can access that sets out all of council's community participation requirements under the planning legislation, including all minimum mandatory exhibition timeframes.

As such, the expectation is councils will transfer all community participation requirements (sometimes referred to as notification, advertising or submission periods) from development control plans to their CPP or a community engagement strategy prepared to meet the CPP requirement.

Reflecting this expectation, the Department is working to amend or delete inconsistent Regulation requirements by December 2019.

Where a council is not able to consolidate their Notification DCP into their new CPP before 1 December 2019, council may reference the relevant notification DCP in the CPP. However, the Department's intention is to progress amendments to the Act to remove this option in the near future.

The planned introduction of a standard format for DCPs format is an additional driver for this change. There is no intention to include community participation information in the standard format for all council DCPs as this is the role of the CPP.

Key points to note include:

- Draft CPPs are required to be exhibited for 28 days, with final CPPs published on the NSW Planning Portal by 1 December 2019.
- The purpose of a CPP is to provide a single document that clearly states how the community can participate in planning matters. It will combine council's existing community engagement approach and the minimum public exhibition timeframes of the legislation for planning functions.

- Section 2.23(4) of the Act gives councils the option to prepare a standalone CPP or include the requirements in a community engagement plan/strategy prepared under section 402 of the *Local Government Act 1993*.
- A council's CPP is required to set out mandatory requirements for community participation by councils for the exercise of their planning functions.
 - The mandatory community participation requirements include minimum public exhibition timeframes relating to planning functions where council is the consent authority, and these are listed in Schedule 1 of the Act.
 - The exhibition period is sometimes described as a notification or advertising period.
- The CPP should be clear about what is meant by public exhibition, which could be described as:
 - giving notice to individual land owners / occupiers;
 - determining an appropriate exhibition timeframe;
 - advertising the exhibition notice, including how submissions can be made; and
 - making documents publicly available.
- A CPP should include all other non-mandatory community participation commitments including when extended public exhibition will occur or targeted consultation.
- A key legal function of the CPP is to inform the community of the different minimum public exhibition timeframes council sets for different types of development applications.
 - The minimum public exhibition period for all development applications (DAs) (except for complying development, State significant development and designated development) is 14 days, unless a council's CPP identifies a different time-period or states that no public exhibition is required ([clause 7 of Schedule 1 of the Act](#)).
 - If exhibition periods **are** currently set out in council's notification DCP councils should transfer or refer to this requirement in their the CPP.
- To provide transparency to the community councils may choose to set out in their CPP other typical community consultation practices.
 - For example, where council notes in a CPP that no exhibition is required for a type of development application, however in practice they typically give near neighbours an opportunity to provide feedback.
 - Where this is included these practices should be clearly distinguished from the mandatory minimum requirements by clearly identifying they are discretionary in nature.
- To avoid uncertainty in relation to minimum exhibition periods and reduce future amendments required to the CPP, the Department recommends councils include necessary community participation information in their CPP and revoke the community participation requirements from any DCP once the CPP is made.
- The Department is aware that there are some inconsistencies in the current framework and are working to identify and have them amended to reflect the legislative intent of the new CPP requirement.
 - For example, a bill has introduced into Parliament which proposes to amend section 5.8 of the Act to remove the inconsistent reference to 30 days and instead to refer to the requirement set out in Schedule 1 which provides for 28 days (*Planning Legislation Amendment Bill 2019*).
 - The Department encourages any feedback on similar inconsistencies to ensure the new CPP requirement works clearly and effectively.

What planning functions does a council need to include in its CPP?

A council CPP should set out, as a minimum, the following:

Table 1. Minimum requirements that should be set out in a council CPP

Schedule 1 to the EP&A Act	Minimum community participation requirement
Draft community participation plans (CPP)	28 days
Draft local strategic planning statements (LSPS)	28 days
Planning proposals for local environmental plans subject to a gateway determination	28 days or: (a) if a different period of public exhibition is specified in the gateway determination for the proposal—the period so specified, or (b) if the gateway determination specifies that no public exhibition is required because of the minor nature of the proposal—no public exhibition.
Draft development control plans 28 days	28 days
Draft contribution plans 28 days	28 days
Application for development consent (other than for complying development certificate, for designated development or for State significant development)	14 days or: (a) if a different period of public exhibition is specified for the application in the relevant community participation plan—the period so specified, or (b) if the relevant community participation plan specifies that no public exhibition is required for the application—no public exhibition.
Application for development consent for designated development	28 days
Application for modification of development consent that is required to be publicly exhibited by the regulations	The period (if any) determined by the consent authority in accordance with the relevant community participation plan.
Environmental impact statement obtained under Division 5.1	28 days

Important points to note:

- The mandatory requirements in Schedule 1 for community participation include any other forms of community participation that are set out in a CPP and that are identified in the CPP as mandatory requirements.
- Councils are not required to include in their CPP minimum exhibition timeframes for relevant planning functions that do not apply to them.
- Clause 17 in Schedule 1 to the Act states that if a particular matter has a different exhibition or notification period that applies under Part 1 of Schedule 1, the longer period applies.

Council CPP checklist

1. Decide whether to:
 - Option A: Prepare a standalone CPP
 - Option B: Rely on or update an existing Community Engagement Strategy (CES) prepared as per section 402 of the Local Government Act (council only). This requires a statement that the document has been prepared to satisfy CPP requirements and acknowledge which sections are being used to satisfy these requirements.
2. Demonstrate regard to the Community Participation Principles (outlined in 2.23 (2) of the EP&A Act):
 - Option A: If preparing a standalone CPP this could be achieved by repeating community engagement principles set out in council engagement strategies to ensure consistency.
 - Option B: If updating an existing CES this could be achieved by reference to community engagement principles already set out in that document.
3. Describe how and when the council enables community participation:
 - Option A: If preparing a standalone CPP this could be achieved by repeating the community engagement approach set out in council engagement strategies to ensure consistency.
 - Option B: If updating an existing CES this could be achieved by reference to the community engagement approach already set out in that document.
4. List minimum public exhibition timeframes for relevant planning functions. This will include lifting minimum development application exhibition timeframes from notification DCPs and putting them in councils CPP. A list of the relevant planning functions and guidance the relationship between CPPs and notification DCPs are provided above.
5. Exhibit the CPP for a minimum of 28 days.
6. Publish on the NSW Planning Portal before 1 December 2019 (directions on how to upload to the portal will be provided by the Department).

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