

Environment and Planning Law Committee

Revised Community Consultative Committee Guidelines

4 April 2016

Submission to the NSW Department of Planning and Environment

*Executive Director
Resource Assessment & Business Systems
Department of Planning and Environment
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Submission Opportunity

The NSW Young Lawyers Environment and Planning Law Committee (**Committee**) welcomes the opportunity to make the following submission to the NSW Department of Planning and Environment (**Department**) in response to the Revised Community Consultative Committee Guidelines (**Revised Guidelines**). The Department seeks input on the Revised Guidelines to make sure the guidelines are as current and useful as possible, helping maximise the effectiveness of new and existing Community Consultative Committees (**CCCs**).

NSW Young Lawyers

NSW Young Lawyers is a division of the Law Society of New South Wales. NSW Young Lawyers supports practitioners in their professional and career development in numerous ways, including by encouraging active participation in its 16 separate committees, each dedicated to particular areas of practice. Membership is automatic for all NSW lawyers under 36 years and/or in their first five years of practice, as well as law students. NSW Young Lawyers currently has over 15,000 members.

Environment and Planning Law Committee

The Committee brings together a network of the State's young practitioners from a variety of professional backgrounds including private legal practice, government, non-government organisations, and the Bar. The Committee focuses on environmental and planning law issues, raising awareness in the profession and the community about developments in legislation, case law, and policy. The Committee also concentrates on international environment and climate change laws and their impact within Australia.

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Recommendations

The Committee welcomes the publication of the Revised Guidelines to ensure that the NSW community is effectively engaged with, and consulted upon, major projects across the State. Whilst welcoming the Revised Guidelines, the Committee offers the following recommendations to deliver the objectives of the reforms:

- 1. The Revised Guidelines should apply to all State Significant Development and State Significant Infrastructure.**
- 2. The selection criteria for community representatives under the Revised Guidelines should be amended to representatives who are current residents of the area and/or have knowledge and awareness of the project and related issues of concern to the local community.**
- 3. The Revised Guidelines should be amended to state that the Department is to advertise for the role of Independent Chairperson and that the Secretary of the Department or nominated officer(s) will subsequently select the Independent Chairperson after undertaking any appropriate enquiries and consultations.**

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Extension of the Guidelines

The Revised Guidelines do not apply to all State Significant Development (**SSD**) or State Significant Infrastructure (SSI), as CCCs are not required for all SSD projects. Contrary to the suggestion in the Revised Guidelines, the Committee submits that all SSD and SSI would benefit from improved and increased community engagement. SSD and SSI are, without exception, developments of a sufficient scale, intensity, and impact to warrant facilitation and management of community expectations at all stages of the proposal.

Recommendation 1: Community Consultative Committees should be required for all SSD and SSI and therefore the provisions of the Revised Guidelines should apply to all SSD and SSI.

Selection Criteria for Community Representatives

Under the current version of the Guidelines, a community representative is to be a current resident of the local area and/or have awareness of local and other relevant issues. Under the Revised Guidelines, the selection criteria for a community representative on a CCC states that they are to be a current resident of the area. This proposed restriction (i.e. removing the “and/or have awareness of local and other relevant issues”) has the potential to exclude suitable and qualified candidates that may be well equipped and ideal as to represent the issues and ideas of the local community. The Committee considers, therefore, that the requirements of the current Guidelines should be retained in this regard.

Recommendation 2: The selection criteria for community representatives under the Revised Guidelines should be amended to representatives who are current residents of the area and/or have knowledge and awareness of the project and related issues of concern to the local community.

Independence of the Chairperson

Under the current Guidelines, the Chairperson of a CCC is appointed by the Director-General of the Department following such consultation as the Director-General may consider appropriate. Under the Revised Guidelines, the proponent of the project is responsible for “nominating an appropriate Independent Chairperson to the Department”, nominating at least two options for that position. The Secretary of the Department then formally appoints the successful candidate.

This process may call into question the independence of the Chairperson. The Committee considers that it would be a more transparent and robust process for the proponent not to be involved in the process of selecting an Independent Chairperson. Considering the important role that the Chairperson plays in both formulating the composition of the CCC (through selecting community representatives) and managing the ongoing functions of the CCC, their independence is paramount to ensuring the goals of these committees are achieved.

Recommendation 3: The Revised Guidelines should be amended to state that the Department is to advertise for the role of Independent Chairperson and that the Secretary of the Department or nominated officer(s) will subsequently select the Independent Chairperson after undertaking any appropriate enquiries and consultations.

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Further Contact

The Committee once again thanks you for the opportunity to submit on the Revised Guidelines. Should you wish to discuss the content of this submission please do not hesitate to contact the NSW Young Lawyers office bearers below.

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