



Citizen Science Partnerships

NSW Department of Planning and Environment

Submission on Draft Guidelines: Community Participation Plans – December 2018

Thank you for this opportunity:

My comments are framed by this statement on page 5:

Why is community participation important?

- ***It builds community confidence in the planning system***
- ***Community participation creates a shared sense of purpose, direction and understanding of the need to manage growth and change, while preserving local character***
- ***It provides access to community knowledge, ideas and expertise***

I would add to building confidence, ***building trust, relationships and respect.***

And I would also extend the frame to include what I call the **RAT test - Robustness, Accountability, and Transparency**. The system needs to adhere to these principles at every point.

Recommendations:

Overarching

Emphasise a proactive rather than a reactive approach to Planning

Demonstrate that the knowledge, ideas and expertise provided by all stakeholders – including volunteers - are value inputs assessed on merit/evidence. It should be ‘what you know’ not ‘who you know’.

- Secretary’s Message: page 4 “increase community participation” should indicate both quality and quantity. There need to be tangible benefits for participation and examples/case studies of how particular participation has achieved better environmental and amenity outcomes consistent with legislation, but also framed within overarching policy where all inputs are assessed on merit/evidence.
- What is our Community Participation Plan? (page 5) “It does this by setting out in one place **how and when you can participate in the planning system**”. I would suggest that it is not in the spirit of the EP&A to suggest that a participant can be ‘turned off and on like a tap’. The system needs to identify and demonstrate how it supports community through different levels of participation. It

should also be recognised that ‘participation in planning’ takes many forms, including civil ‘disturbance’ and political lobbying etc. It is in the interests of all concerned to achieve an open-door participation system that is agonistic rather than one that is antagonistic. For a proactive planning system agencies need to be able to tap into community/volunteer *knowledge, ideas and expertise* on a regular basis and to do this should have effective ongoing relationships.

- “The community includes anyone who is affected” – there is a major role in the community/for volunteers, consistent with the EP&A Objects, for environmental advocacy and for participants not personally affected to speak up for other species and in ‘Environmental Justice’ cases for disadvantaged communities.
- Participants: Recognise stages and levels of participation from an online survey to intensive involvement in a major project eg. consultation meetings, submissions, Independent Planning Commission appearances, Community Consultative Committees (sometimes continuing for decades). The ‘*knowledge, ideas and expertise*’ may be acquired through engagement over many years. Participants once engaged at any level need to be kept informed and provided with opportunities to provide their ‘*knowledge, ideas and expertise*’ consistent with 1.3(j) of the EP&A “to provide **increased opportunity** for community participation...”
- Level 1 Inform: “During the early scoping of a proposal we inform you of the intent and seek feedback to shape the project’s design”. This assumes that the project is acceptable. At the scoping phase there needs to be more rigorous assessment of the intent. All parties need to come to the table to honestly consider the merits and the implications before proceeding. Trust and confidence in Planning is eroded if participants feel that it is a ‘done deal’ and the only ‘*knowledge, ideas and expertise*’ required is reserved for small details, eg. colour schemes. At each stage there should be clear criteria for progression.
- Levels 2 and 3: Consult and Engage: Community/volunteer *Knowledge, ideas and expertise*: In the assessment process this needs to be considered along with other inputs not separated out. Inaccurate information should be identified as such regardless of source.

Environmental Objects in EP&A 1.3(a) ‘proper managementconservation of the State’s natural Resources’; 1.3(b) ‘to facilitate ecologically sustainable development ...’; 1.3 to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats”. Given community concern for these objects, the assessment of all inputs should demonstrate how all elements of a particular participation process have resulted in best practice in achieving these goals.

Like other phases, this needs to be robust and transparent. Participants need to be able to access *knowledge, ideas and expertise* of other participants and those paid to provide it, such as Government employees providing expert advice or consultants - reports from the proponent or those commissioned by Planning, a local Council or others. Submissions should be uploaded when they become available so there is opportunity for further engagement, eg. where a participant has fresh knowledge to add. See other systems, eg. IPART, State and Federal Government Enquiries. Sharing and pooling knowledge underpins learning and transparency and robustness in the system. There should be opportunities to engage with experts to ensure full disclosure of knowledge and

understanding of risks. This includes Government agencies who in some cases may need to be told to provide further information when initial submissions are sub-standard and do not meet expectations in providing the ‘truth, the whole truth and nothing but the truth.’ The ICT tools are available to ensure robustness and they need to be used.

- On page 12 – “You can provide us with feedback at any time”. How is this recorded and available. An alert system should be available from the relevant DPE websites, eg. Major Projects, Polices. The same should apply to Councils when their Plans are developed.
- Decisions (page 12): *“In reaching decisions on proposals that have been exhibited, the Minister for Planning, the Planning Secretary or the Department balance a wide range of factors to ensure that decisions are in the public interest. This includes considering the objects of the EP&A Act, the strategic priorities of the Government, the community’s input, the land use priorities identified in strategic plans and applicable policies and guidelines.”* This does not explain what weight the EP&A is given in the process. It appears as one of many considerations instead of the overarching legislation. **‘The strategic priorities of the Government’ are not listed in 4.15 (4.40) of the Act, however, (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, which attract most community interest is not included in the list, here.** This document and any allied communication needs to articulate as clearly as possible the legal framework and how the Department works within that framework. It is critical to the process that participants understand this otherwise they are likely to be frustrated when they don’t understand what is achievable and what is not.
- Determination: *“In reaching a decision we consider your views and concerns, notify you of the reasons for the decision and how community views were considered.”* This should be reworded to **refer to the knowledge, ideas and expertise** and to consider how this input and all others align with the Objects of the EP&A. For example, 2,000 objections to a development that are based on misinformation should not outweigh 10 well-informed supporters or reverse. This needs to be explained. The inputs/evidence provided needs to be laid out on the relevant website so that it is clear who is providing the advice/evidence/analysis and how it compares across providers whether that be from the proponent, government agencies or volunteers in the community. Take the Major Projects website for example: at present agency submissions may be shown in more than one group, submissions from individuals and organisations may be separated or in some cases even amalgamated - see for example Sydney Stadium demolition where it is difficult to search for individual submissions as compared to Light Rail. Some submissions that may be objections to a development can be listed as ‘comments’ and some that are commenting are listed as ‘supports’. The website needs to be upgraded to reflect the needs of all participants and to highlight *‘knowledge, ideas and expertise’* and legal requirements. The summary page requires a complete restructure.
- As part of the **pre-determination** there should be opportunities for community participants to engage in discussions on the Conditions of Consent. This may depend on knowledge of the project and/or relevant expertise, eg. a local bush care group might be included where recommendations for a proponent funded restoration project are being considered as a Condition or when a VPA is being negotiated. This would need to be achieved with absolute transparency and accountability

built into the conditions/VPA. The current system for VPAs at Council level can be opaque. This does not inspire confidence in the system nor is it necessarily in the best interests of the community/environment impacted and the proponent who in some cases is in the early stages of building 'social licence.'

- The Determination, as well as assessment process, should also alert participants to future projects that may be necessary as a result of the project's approval, eg. the Port Botany Expansion EIS assumed expansion of the M5, M4 and construction of the F6. The 'enabling' feature of this project along with other key developments in the sub-region needed to be understood so that Westconnex could be examined within context. It would be helpful if the proponent was required to highlight other works that would be required and for government agencies to do likewise. In the case of the Port Botany Expansion this information was provided in the EIS but there were many volumes (total weight 17.5kg) to read and agencies, with employees paid to provide advice, did not highlight this. Indeed, Sydney Ports, a Government agency at the time, would not mention let alone highlight the link with the proposed Enfield Intermodal. It is incumbent, particularly on Government agencies, to provide information on the likely consequences of major developments so that community volunteers can understand the bigger picture – how the jigsaw pieces, so to speak, fit into place. This is an example of planning, proactive rather than reactive.
- Finally, it should be made clear to participants that a Determination is not the end of the process. There may be a Community Consultative Committee and there are likely to be modifications eg. from Major Projects website LGA Randwick – Port Botany 17; Orora 8; Light Rail 6; Modifications to the Prince Henry Masterplan are not readily found because the consent authority was Randwick City Council. With regard to the last of these, a mechanism for providing information on such major Council determined projects is also critical to understanding the bigger picture.

Participants need to be kept informed after the determination and should be able to sign on for alerts for modifications and for Compliance reports. Those who engaged in the first round of a DA need to be automatically alerted when a modification is submitted. For example, the first Mod approval for Light Rail changed the alignment along Alison Road. This resulted in the loss of more mature trees on the Centennial Park side. The majority of public participation occurring as a result of that Mod involved major protests after the consequences became clear and mostly as the trees were being destroyed. This was a poor outcome for all parties and not in the spirit of the EP&A.

- Compliance, Monitoring and Review need to be included as participants are more than likely to be interested in how a project progresses, how compliance is achieved, and if there are community monitoring opportunities (these could be included in Conditions of Consent). These processes can also assist in providing information on best practice in project fit and implementation. Learning through the review process can be applied to future projects. Where Community Consultative Committees (CCCs) are established the Department needs to support community volunteers in their monitoring role. An annual review of participatory achievement is long overdue. Reports should be made available on the Planning website. At present the average CCC appears as a box-ticking exercise.

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