

Submission prepared by:

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Community Participation Plan Exhibition Draft October 2018

Community Groups' Submission

Note: This submission was co-ordinated by the Executive members of the Community Groups:
Janet Murray, Terry Lewin and Colin East. Exhibition period: October – December 2018.

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Introduction

This submission by our Community Groups is based on **personal experiences with the Planning System in NSW over the past 29 years**. The driver for making this submission is our interest in improving community participation in the decision making of the NSW Planning System.

We have spent countless hours of our own time over the years, reading EISs, LEPs, Community and Social Plans, attending community consultations, talking to Planners, addressing Council, visiting Ministers, and taking action in the Land and Environment Court (LEC) - all in an effort to **protect and promote the rural and residential amenity and character of the area where we live**. This has been a largely frustrating and unsatisfactory endeavour, at least partly due to the fact that community consultation comes far too late in the process to make any real difference.

Councils, the Department of Planning and the Minister need to realise that it is the surrounding community that is left to put up with any development that is approved and, actually, the **cumulative impact of all surrounding developments**. As such, community input into strategic plans and development assessment/consent processes is the key to improving the community's confidence in decision-making in the Planning arena.

The *Community Participation Plan (CPP) Exhibition Draft October 2018* before us includes **some things that we support, some that we object to, and some things that we would like to see further improved**. Our submission below includes comment on the areas we support or oppose (mostly under the headings from the Exhibition Draft), as well as further improvements we would like to see.

This *Draft CPP* is also likely to provide a template for the other NSW planning authorities required to prepare one (such as Local Councils), so it is important to ensure that it contains a comprehensive set of actions that map onto the agreed community participation principles within the EP&A Act (Section 2.23(2)).

2.1 Our community participation objectives

In principle, we agree with all five of the community participation objectives. We have some concerns however, as to how they will be met.

Community participation is open and inclusive:

- It is easy to keep the community informed once you know who within that community is interested. We believe there should be some mechanism whereby groups such as ours can register to participate in any planning processes that arise within their geographic area of interest.

- By linking with existing groups, information about proposals or forums can be readily disseminated through existing community communication channels (e.g., e-lists, closed community Facebook groups, school newsletters, face to face meetings, etc).
- As well as telling the community what is planned for their area, there should be regular opportunities for the community to speak up about facilities lacking in their area, which could be improved in conjunction with the proposed development(s). For example, in our area, many do not have access to the NBN. It would be galling to see industrial estates going in next door with access to state of the art NBN, while their neighbours are still stuck with limited, slow, unreliable and expensive broadband.

Community participation is easy:

- Having been involved with developments for coal mines, quarries, landfills and industrial rezonings, we would have to say that participation has never been easy! There is always way too much information for a community group (let alone an individual) to read, digest and comment on.
- We believe in this day and age, that expert reports could be condensed into a 3-minute YouTube video. The expert would need to distill her report down to the essentials, including “If I lived next door, I would be concerned about XXX but have no concerns about YYY. More information on XXX can be found on page XX of my report.”
- Of course, if experts were drawn from an independent panel and reported their findings directly to the Department of Planning, rather than to the developer who pays for their work, their communication may be a lot clearer.

Community participation is relevant:

- ‘Relevance’ is itself a moveable feast – and it is often difficult for community members to appreciate the significance of a particular proposal or planning sequence at the time. For example, community members often do not appreciate the importance of particular strategic plans, until those plans are used against them at a later point. Likewise, recent approvals given to developments in adjacent areas can impact on the likelihood of similar developments nearby. So, tailored engagement activities, which set out desired/likely stages, implications, timelines and input opportunities are essential, but a reasonably wide engagement net also needs to be cast from the start (which adds further weight to the need for ongoing registers of community groups and their areas of interest).

Community participation is timely:

- Our biggest complaint about all levels of the planning system is that the people who are most affected are always the last consulted.
- We strongly agree that community engagement should start “*as early as possible*”, though this may need to be more clearly defined for different proposals.
- The example given “*We require proponents for major projects to conduct pre-proposal and ongoing community engagement*” is cause for concern. We have major concerns with community engagement being left entirely in the hands of the proponent. We have seen cases in the past where this has been abused, with only hand-selected community members invited and dubious information given. We believe that the Department of Planning needs to maintain some involvement in community engagement processes for any significant projects.

Community participation is meaningful:

- “*Give genuine and proper consideration to community input*” - the crux here is ‘*genuine and proper consideration*’, rather than our previous experiences of being ‘dismissed out of hand’ or simply used as a pawn to enable a tick to be placed in the community consultation box.

The quotation below from Section 2.1 refers to “*measurable actions*”, but there is no detail of what is intended. Understanding which community participation plans work, and figuring out why, so that other bodies can improve theirs, would be useful from the community’s point of view. It is a difficult balance to get right – to make communities feel they have been heard, without wasting their time (and hence discouraging them from ever getting involved again).

From the community's perspective, we would also like to see a measure of the percentage of projects that were modified as a result of community participation.

"These objectives will be supported by measurable actions that we will use to:

- *develop community participation programs*
- *embed best practice community participation within the Department*
- *evaluate the effectiveness of our community participation.*" (Page 8)

2.2 Our approach to community participation

During the workshop I attended, there seemed to be some reticence about the **"When"** for **"Level 1: Inform"** (Table 3), shown below. As members of a community group, can we say categorically that this is what we have been fighting for forever! As we keep saying, it is the surrounding community that has to live with whatever is being proposed – forever! They have a right to be informed from the get-go, when there is a chance of changing the shape of things to protect their amenity and environment.

"During the early scoping of a proposal we inform you of the intent and seek feedback to shape the project's design. We then update you on the progress of a proposal as it makes its way through the planning system". (Page 10)

Early engagement is the only way that adversarial situations can be avoided. **Open and honest discussion is required from both sides** to understand the issues - only then can compromises be made on both sides. In our experience, developers often don't want to talk to the community because they already have a fixed view of the returns that they want to achieve and are not interested in moving from that viewpoint. For example, after 25 years of battles in the L&E Court and Council with a local quarry operator, we have just recently been consulted via the Community Consultative Committee about future plans to co-locate a concrete recycling facility. We have openly said what our concerns are eg increased traffic, contaminated waste, asbestos etc and realised that some of them are shared by the quarry operator, giving us some common grounds for discussion from the outset.

3.2 Exhibition timeframes

We are concerned that the exhibition period for State Significant Development is only 28 days, as is the case for designated development and State Significant Infrastructure. All of these developments can be accompanied by massive Environmental Impact Statements or other supporting material. It is **unrealistic to expect serious community participation within this timeframe**, unless there is a **seismic shift** in the way information is made available and made understandable (e.g., YouTube as suggested above/video/infographics, etc). Even then, community groups can often only meet at weekends and also may choose to obtain their own expert opinion, all of which takes time. (Again, if we knew that the experts were truly independent of the developer, there would be less need for more expert opinions.)

If part of the aim of preparing a Community Participation Plan (CPP) is to increase confidence in the Planning system, then provisions such as the one listed below need to go! Expressions such as **'or for any other reason'** demonstrate that we still cannot trust the Planning system in this state! If a development is going to impact the environment, then all concerned have a right to know – especially the community that is going to live alongside it!

*"A public authority is not required to make available for public inspection any part of an environmental impact statement whose publication would, in the opinion of the public authority, be contrary to the public interest because of its confidential nature or for **any other reason**."* (Page 13)

Conclusion

Our community groups appreciate the invitation and opportunity to comment on the Department's Community Participation Plan (CPP), though, as often seems to happen, the proximity to Christmas is a disincentive to many to get involved. This time, we have taken the precaution of writing our Christmas cards before starting this submission.

Our groups are in favour of the five community participation objectives in the *Draft CPP*. At this stage, however, they are just words on a page. It remains to be seen how well they translate into giving communities a genuine say in the nature of developments that affect them.

It is vital that community engagement commences as soon as possible and can genuinely have an impact on the finished project.

It is clear to us that **new ways must be found to communicate information** to community members, rather than expecting them to read and understand extensive expert reports. Pressure must also be brought to bear on the experts to succinctly and effectively state the impacts of the proposal. While ever developers choose and pay the experts, however, it is difficult to believe that they are giving frank and fearless advice that the community can have faith in.

Appendix: The Community Groups

The Black Hill Environment Protection Group (formed in 1982) and the Buttai Community Development Group (formed in 1990) are unconstituted Community Groups which seek to protect the local environment and the rural/residential lifestyles of our local communities (E-mail contact: BlackHillEPG@bigpond.com). The Groups' primary focus is on the environmentally sensitive Buttai/Black Hill end of the Sugarloaf Range and associated catchments, water courses and wetlands. The Community Groups meet on an 'as needs' basis to discuss community concerns and to co-ordinate submissions to Councils and other agencies about development proposals, environmental or other plans, and related regional/state issues.

Over the past three decades, submissions have been prepared about a variety of issues, including gravel quarries and coal mine proposals, transport and waste management proposals, Landcare and catchment issues, Local Environment Plans, and associated government policies. We have been involved in cases before the Land and Environment Court and contributed to associated mediation agreements in collaboration with Cessnock City Council. We were the lead group co-ordinating the successful "Hunter Residents Against Sydney Garbage Dumps" campaign – to stop Sydney's waste being dumped at Bloomfield.

Members of our Community Groups currently contribute to Community Consultative Committees (CCC's) for the Abel underground coal mine, Daracon's Buttai Quarry, Black Hill Quarry, and Bloomfield's open cut coal mine, together with associated welfare and conservation trusts, such as the Donaldson Conservation Trust. In addition, the Group has been represented on Cessnock Council's Economic Strategy Development Committee.