



Environmental
Defenders Office

Submission on the proposed NSW Community Participation Plan

3 June 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

Lodged online: <https://www.planningportal.nsw.gov.au/draftplans/exhibition/have-your-say-proposed-statewide-community-participation-plan>

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

Introduction

1. Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the NSW Government's Draft Community Participation Plan (**draft CPP**) and accompanying Discussion Paper.¹ The draft CPP is being developed following recent amendments (yet to commence) to the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) that require a single state-wide Community Participation Plan (**CPP**) for NSW prepared by the Planning Secretary, rather than a CPP for each individual planning authority, as currently required. A CPP is required to set out how and when planning authorities will undertake community participation when exercising relevant planning functions. The EP&A Act also sets out certain 'principles' that the Planning Secretary must have regard to when making a Community Participation Plan.
2. Meaningful community participation is a key tenet of environmental decision making. Environment and planning laws impact people and the places where they live, work and connect, and the natural assets they rely on. Community participation is important because it improves the quality and integrity of decision making by ensuring that local knowledge, scientific expertise and diverse community perspectives are considered alongside other interests, including economic interests. A new state-wide Community Participation Plan must support effective and meaningful engagement, rather than embed low standards, remove participation opportunities and create 'tick-the-box' processes that do not facilitate communities to influence outcomes.
3. EDO is concerned that the proposed new CPP sets a low bar for community participation in NSW. In particular, the draft CPP:
 - removes existing public participation opportunities, including through blanket exemptions, and reduces exhibition timeframes
 - lacks the same level of detail currently provided in existing CPPs and should provide more detailed guidance on how to undertake effective community engagement
 - could have stronger objectives that better respond to the community participation principles in the EP&A Act
4. Our submission addresses these key issues in more detail below.

Key Issues

Changes to public participation opportunities and reducing exhibition timeframes

5. In general, we do not support changes that wind back community participation opportunities in the planning system. As outlined above, community participation supports good decision making. Removing community participation opportunities in the NSW planning system

¹ <https://www.planningportal.nsw.gov.au/draftplans/exhibition/have-your-say-proposed-statewide-community-participation-plan>

erodes community trust, removes important input into decision making and can lead to worse outcomes for communities and the environment.

6. We respond to specific proposals in the Discussion Paper and draft CPP below.

Proposed changes to notification and public exhibition of development applications and complying development certificates

7. We are concerned that by standardising public exhibition and notification requirements, including introducing a blanket exemption for certain development, the CPP is adopting the 'lowest common denominator' and restricting public participation, rather than recognising the important role of community engagement in planning decisions and the benefit of planning authorities being able to tailor their engagement to the needs of their communities. The proposals in the Discussion Paper would force community participation requirements backwards in some council areas.

Development exempt from public exhibition and notification

8. In the case of the blanket exemption for certain types of development (identified in Table 2 of the Discussion Paper), we raise the following concerns:
 - We do not agree that these types of development are necessarily 'low-impact', especially across all areas of the state, where the impacts of the development can differ depending on the local environment and community considerations.
 - In relation to modification applications, we note that the appropriate pathway and whether a modification is of minimal environmental impact is open to interpretation and regularly disputed in our experience. Accordingly, it is important that all modification applications are subject to public exhibition to ensure the decision maker has the benefit of community and scientific input into any potential environmental impacts.
 - Community input can help inform decisions about whether development meets the relevant planning controls in a local environmental plan, development control plan and/or state environmental planning policy, so excluding community input on the assumption that a proposal meets these requirements excludes potentially useful input.
 - Confidence and trust in the planning system is underpinned by transparency and participation. The inclusion of the broad range of development in Table 2, such as shop top housing and environmental protection works, will disenfranchise impacted individuals and communities and undermine the integrity of the planning system.
9. We are unaware of any evidence which suggests assessment times are reduced by the removal of public exhibition requirements. In our view, removing a requirement to publicly exhibit a DA and consider submissions could result in an increased risk of litigation.
10. We **recommend** a minimum exhibition period of 14 days for development applications in this category.

State Significant Development and Development with additional environmental considerations

11. We believe the current exhibition period of 28 days for State Significant Development and Development with additional environmental considerations, which would include designated development, is insufficient and **recommend** it be extended to **60 days**.
12. These sorts of developments are complex and the environmental impact statement (**EIS**) and supporting reports are generally both technical and voluminous. The 28-day period afforded to the community is insufficient to allow consideration of the material and consultation with relevant experts. In our view, it does not allow for genuine consultation on developments that have a significant social, environmental and economic impacts.

Residential State Significant Development

13. We oppose a 14-day public exhibition period for any form of State Significant Development.
14. These sorts of developments which include residential accommodation declared SSD under section 4.36(3) of the EP&A Act, in-fill affordable housing, build to rent and seniors housing, have a significant impact on communities and it is unreasonable to expect any meaningful engagement within such a short timeframe.
15. We **recommend** that a minimum **28-day public exhibition period** should apply to State Significant Development (with the exception of SSD discussed in [11]-[12] above).
16. Standardisation can still be achieved by setting minimum requirements, rather than strict mandatory requirements or inappropriate blanket restrictions.

Proposed changes to notification of complying development certificates

17. We oppose the proposal to remove any requirement to provide notice of an intention to issue a complying development certificate (**CDC**). Further, we consider that the proposed 7-day notice period before commencement of works is too short a time frame and **recommend** that it should be 14 days as a minimum.
18. CDCs can authorise significant building and earthworks that can result in significant impacts for neighbouring properties. Ensuring community have adequate opportunity to seek advice in relation to any complying development and contact the relevant regulator to report any non-compliance with the development standards before the works commence is important.

Public exhibition for strategic planning

19. It is proposed to extend the timeframe for public consultation from 45 days to a minimum non-legislated 60-day public exhibition timeframe for draft regional or district strategic plans; and for local strategic planning statements.
20. We **support** longer public exhibition timeframes in the early stages of the planning process such as when regional and district strategic plans are proposed. These are complex planning

documents that affect entire communities, and longer timeframes for community engagement is warranted. However, that does not mean that community engagement should be curtailed for individual development applications – community input is still important once the details and potential impacts of an individual development are known.

Guidance for effective community engagement

21. We are concerned that the draft CPP does not provide the same level of guidance for effective community engagement as many of the current individual plans. For example:
- Currently, the CPPs for the Department of Planning, Housing and Infrastructure (**DPHI**), Independent Planning Commission (**IPC**) and local Councils contain detailed requirements on how to engage with diverse communities, with specific strategies to meet the needs of people from all social, cultural and economic backgrounds. There are also additional details on how to actively engage with all members of the community.
 - Individual CPPs also have specific details on how information can be made available, types of engagement activities, and ways to provide feedback.
22. This level of specificity and detail is not carried over into the draft CPP. We **recommend** that the CPP provides more detailed guidance on these specific issues to help planning authorities develop appropriate strategies for carrying out community engagement in the context of their planning functions, and acknowledges that specific details can be incorporated into the engagement strategies of each individual council or agency.

Strengthening the CPP objectives

23. We generally support the community participation objectives in the draft CPP which are based on the principles in section 2.23(2) of the *Environmental Planning and Assessment Act* (NSW) (EP&A Act). However, we **recommend** that some of the objectives be strengthened to better reflect these legislative principles, as well as the best practice participation principles of the International Association for Public Participation (**IAPP**). The IAPP best practice principles were discussed in our submission on the IPC's draft Community Participation Plan dated 11 July 2019.²
24. We provide the following **recommendations** for strengthening the objectives in the draft CPP:
- **Objective 1 should be expanded to explain that "planning authorities should actively seek views that are representative of the community" (s 2.23(2)(e) EP&A Act, IAPP Core Values 1 and 4):** As part of this, planning authorities should be required to "encourage effective and on-going partnerships with the community" (s 2.23(b), IAPP Core Values 1

² See EDO, *Submission on the Independent Planning Commission's draft Community Participation Plan*, July 2019, [https://www.edo.org.au/wp-content/uploads/2020/01/190711 - EDONSW - Submission on the IPC Community Participation Plan.pdf](https://www.edo.org.au/wp-content/uploads/2020/01/190711_-_EDONSW_-_Submission_on_the_IPC_Community_Participation_Plan.pdf)

and 2). This is reflected in the current CPP for DPHI which notes that the Department "actively seeks community views and tailor engagement programs to capture harder-to-reach audiences including the young, people living with disabilities, the elderly, those living in rural areas, Aboriginal and Torres Strait Islanders and culturally and linguistically diverse people" (p 9).

- ***Objective 2 regarding "easy to access" should be expanded to require planning information to be in plain language and in a form that facilitates participation by people from diverse backgrounds (s 2.23(2)(c) EP&A Act, IAPP Core Value 4):*** As part of this, the objective needs to expressly require planning authorities to present information in a wide range of formats that include alternatives for people who do not have internet access. Objective 2 in the current CPP for the Department of Planning specifically mentions details of how this will be achieved. For example, there is a requirement to translate information when engaging linguistically diverse communities or people with disabilities. There is also an express requirement to ensure that information is accessible for groups who find it difficult to participate in usual community activities. Similarly, an objective in the IPC's CPP requires the IPC to "ensure information is accessible and seek input from groups who may find it difficult to participate in standard engagement activities." (p 3) The IPC's objectives in the IPC's CPP also require the IPC to "ensure that views of traditional owners are heard in a form and at a venue that is culturally appropriate and consistent with the Commission's processes" (p 3).

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*