

Draft Waverley Community Participation Plan – Exhibition submissions and response summary

Author / date	Submission comment	Response
External submissions		
Anonymous Have Your Say online submission Received 14/10/2019	<ul style="list-style-type: none"> p.8 – Community engagement methods – add Precinct Meetings and emails (many Ratepayers emails are already stored for rate notification) 	<p>Noted.</p> <p>Emails and Precinct meetings have been listed as methods of community notification and participation (refer to p.8 of the Waverley CPP). However, it is noted that this is not meant to be an exhaustive list of all the community participation methods available to Council. The text has been amended to reflect this.</p>
	<ul style="list-style-type: none"> p.8 – "An important component of community participation is responding to and demonstrating how feedback has informed decision making" - to do this in a timely manner the council should consider having an online register for each planning matter that residents can opt in or out of for updates as well as for them to input. This will enable the council to inform all interested parties in the progress of the matter for it's complete lifecycle - inform, consult, involve, response & determination. 	<p>Noted.</p> <p>Providing the community an opportunity to stay up to date and informed on Council planning processes and decisions is a key part of our approach to community participation.</p> <p>Reporting on community consultation may be undertaken in the following ways:</p> <ul style="list-style-type: none"> Council may notify those people who have been actively involved and are directly affected by the proposal of the outcomes and decisions, Council may publicise a submissions report which outlines the scope, community input and how this input has been considered, Council will publicise Council and WLPP meeting minutes and reports. <p>Depending on the nature and timing of a decision, these reports may be published prior, at the time or following the making of a decision or finalisation of a project.</p> <p>Further, the community can stay up to date on Council processes and decisions by:</p> <ul style="list-style-type: none"> registering for specific projects on the Waverley Council Have Your Say webpage, tracking the progress of Development Applications through Councils Development Application tracking tool, subscribe to planning and Development Application alerts which provides a list of planning applications in the Waverley LGA.

		<p>The Waverley CPP has been amended to include a section titled 'How we report on community participation' (refer to p.9 of the Waverley CPP) to provide detail of the above.</p>
	<ul style="list-style-type: none"> p.23 – Complying Development - only need to discuss with neighbours who are in 20m radius - this should be expanded to at least 50 if not 100m or even 1km in the case of a school or hospital!! And then only 14 days for neighbours to respond!! At least 28 days. 	<p>Complying development is development that meets specific standards under State government legislation such as the <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>. Development may comprise construction of a new building, alteration and / or additions to an existing building and internal alterations (fit-outs) of commercial / retail premises.</p> <p>The Department of Planning, Industry and Environment (DPIE) undertakes community consultation during preparation of such legislation, however does not require consultation to be undertaken for subsequent complying projects. Neighbours must be notified, there are no objection rights to a complying development proposal because it meets the minimum impact criteria. This requirement is determined by the State Government.</p> <p>Council encourages communication between complying development applicants and their neighbours and will continue to advocate for best practice community participation for all development proposals, particularly more significant complying development applications, such as alterations and / or additions to an educational facility.</p> <p>The Waverley CPP has been amended to provide further clarification on Council-led planning processes and decisions versus those external to Council.</p>
	<ul style="list-style-type: none"> p.24 – Local Dev Application - the definition of neighbouring properties is ambiguous. Keep it simple. E.g. 200m or 250m radius. Also, I am informed that visiting the Development desk is not much help as all that happens is they pass you the artefacts and do not discuss it. Not sure if that is the only service they are meant to provide. 	<p>Noted.</p> <p>Part 6 of the Waverley CPP, 'Advertising and notification requirements', outlines the process to determine the extent of notification and persons to be notified (refer to p. 34-35 of the Waverley CPP). The current approach provides flexibility and allows for any property / person where in the authorised Council Officer's opinion, may be detrimentally affected by a proposal, to be notified. This is often dependent on the type, scale and potential impacts of a proposal.</p> <p>All development documents are available in hard-copy at the Customer Service Centre and online via the Development Tracker. Following public</p>

		<p>notification, the community may contact the assessing Council Officer to discuss a proposal.</p> <p>During the exhibition period, formal submissions can be made to Council. Submissions made during this timeframe will be considered when determining an application. However, the community can make submissions to Council outside a formal notification period. Submissions received after the nominated timeframe will be considered where possible. Applications will not be determined prior to the expiry of the nominated notification period.</p>
	<ul style="list-style-type: none"> p.33 – Complying developments should still have a notification requirement. 	<p>Noted. Per State government requirements, neighbours must be notified of complying development applications, however, there are no objection rights because it meets the minimum impact criteria in the legislation. Council will continue to advocate for best practice for community participation, however cannot amend the consultation and notification requirements set by the State Government.</p>
	<ul style="list-style-type: none"> p.35 – In general Table 8 appears to have very little time for residents to be notified and have an opportunity to respond. A few examples: Single / small-scale residential and Multi-residential should be Type B as a minimum. New multi dwelling housing should be C. All commercial should be C. 	<p>Noted. Schedule 1 of the EP&A Act identifies a mandatory minimum 14 day exhibition period for applications for development consent (refer to Table 7, p.32 of the Waverley CPP). Council has three different public exhibition periods which meet the minimum 14 day requirement. These are applied to various applications depending on the proposed use / development (refer to Table 8, p.36 of the Waverley CPP).</p> <p>At this point in time, Council Officers are not recommending amendments to the minimum exhibition timeframes in the Waverley CPP. This is partially due to the requirements also being located (verbatim) within Part A2 of the Waverley Development Control Plan (WDCP) until such a time that the DPIE amend the Environmental Planning and Assessment Regulations 2000 (EP&A Regs) to remove the reference to notification requirements being located within a Council's DCP.</p> <p>As of 13 September, the DPIE are aiming to have amendments gazetted prior to 1 December 2019. The WDCP will therefore be amended to repeal Part A2 in 2020.</p> <p>Amendments to the minimum exhibition timeframes will remain a matter for consideration for future amendments to the CPP, following repeal of Part A2 of the WDCP.</p>

<p>JOC Consulting on behalf of 23 Ebley Street, Bondi Junction Received by email 25/10/2019</p>	<ul style="list-style-type: none"> • Scaled notification and consideration - Our client would like the Waverley Development Assessment notification process to be scaled by proximity and risk as well as intensity of effects on nearby owners and occupiers. The extent of both notification and the weighted consideration of submissions should be explicitly dependent on the realistic extent of potential effects on an owner or occupier. • Our client would like to see an owner/occupier of an adjoining site be directly notified and their submissions given a greater weight than non-adjoining properties, and more again than those further a-field who are given a lower weight and not directly notified. This is best represented as a map in the CPP that clearly stipulates the extent of notification and consideration (see Canterbury Bankstown draft Community Participation Plan for an example of a notification map). • This amendment will provide property owners with consistency and certainty, and assist in avoiding situations where applications are notified in the same manner regardless of potential effects. Further this will also assist in avoiding situations in which submissions from those that are marginally affected are considered similarly to those of that are directly affected by a proposal. 	<p>Noted. The current advertising and notification process for development applications in the Waverley LGA (as set out in Part 6 of the CPP) requires Council to notify all persons who own or occupy land immediately adjoining the application site and others that (in the opinion of the Council officer) may be affected by the proposal.</p> <p>At this point in time, Council Officers are not recommending amendments to the advertising and notification process. As outlined above, this is partially to do with the requirements also being located (verbatim) within Part A2 of the WDCP. Amendments to the advertising and notification process will remain a matter for consideration and future amendments to the CPP, following repeal of Part A2 of the WDCP in 2020.</p>
	<ul style="list-style-type: none"> • Local experts as a resource for engagement - Our client would like to see a greater involvement of local built environment professionals/experts in the local planning system. For example, establishing a consultation panel consisting of local planners, architects, urban designers and other professionals that are used for design reviews of development applications to improve highly skilled community involvement in local decision making. 	<p>Noted. The Waverley Local Planning Panel (WLPP) is an independent panel made up of specialists from the disciplines of Architecture, Urban Design, Town planning, Heritage and Planning Law as well as elected community representatives. The WLPP determines significant development applications in the Waverley LGA (refer to p.20 of the Waverley CPP). Further, the Waverley Design Excellence Panel, provides a review role providing recommendations to the Council Officer during the assessment period. These panels allow for involvement of build environment professionals / experts in local planning matters.</p>

Internal submissions		
Development Assessment 26/09/2019	<ul style="list-style-type: none"> Clarification sought on the legal weighting / standing of the CPP. Development Assessment raised this with reference to the DA notification requirements – questioned whether they would hold the same weight being in the CPP as opposed to the DCP which is a matter for consideration under s4.15 etc. Notification requirements are often raised in Court. 	<p>Noted.</p> <p>Per Division 2.6, Clause 2.24(2) of the EP&A Act, a CPP will be considered valid if the plan has not been challenged in proceedings commenced in the Land and Environment Court (LEC) within 3 months of it being published on the NSW planning portal.</p> <p>The DPIE are currently preparing amendments to the EP&A Act and Regs to correct inconsistencies, including that development application notification requirements will no longer be in DCPs but rather CPPs. It is anticipated that once a CPP is considered to have been made validly under the EP&A Act, the CPP will hold the same weight as the current WDCP, with regard to the notification requirements. As of 13 September, DPIE were aiming for October Bill to have amendments gazetted prior to 1 December 2019. Council Officers intend to seek further clarification from the DPIE on this matter.</p>
	<ul style="list-style-type: none"> Clarification sought on the process for amending the CPP. Is it the same process as amending a DCP? 	<p>Noted.</p> <p>As of March 2019, it is understood that the DPIE is giving consideration to the creation of regulations to set requirements for reporting on implementation of CPPs. This may also include amendments to a CPP. Council Officers currently understand that the process for amending a CPP is the same if not similar to a development control plan. Council Officers intend to seek further clarification from the DPIE on this matter.</p>
	<ul style="list-style-type: none"> Consider making the Waverley CPP a ‘Submissions policy’ with regard to the Waverley Local Planning Panel. 	<p>Noted.</p> <p>The Waverley CPP has been amended to include a statement noting that the CPP also forms Council’s approved ‘Submissions Policy’ as referenced under Council’s Local Planning Panel delegations (refer to p.15 and p.20).</p>
	<ul style="list-style-type: none"> Preference to retain the Waverley CPP as a standalone document as opposed to appending it to the Waverley Community Engagement Policy and Strategy. 	<p>Noted.</p> <p>Refer to Council report for further discussion.</p>
Urban Planning, Policy and Strategy	<ul style="list-style-type: none"> Clarification on approach for repealing the Waverley DCP Part A2 Advertising and Notification. 	<p>Noted.</p> <p>Council Officers have not sought a concurrent amendment to Waverley DCP. Rather it is proposed to seek adoption of the Waverley CPP by</p>

06/09/2019	<ul style="list-style-type: none"> ○ Some Councils (e.g. Cumberland, Georges River, Bayside) have incorporated the CPP requirements in their main Community Engagement Plan, either including DCP notification requirements or referring to existing DCP. Assume when the Act changes, these Councils will then update their CEP and DCP to repeal and shift notification requirements across? ○ Other Councils (e.g. Canada Bay, City of Sydney) have prepared a standalone CPP with notification requirements and amending DCP concurrently. 	Council at the 5 November SPDC meeting and then amend the WDCP in 2020 following the proposed changes to the EP&A Regs by the DPIE.
	<ul style="list-style-type: none"> • Clarification on timing and content of the EP&A Act and Regulations amendments by DPIE to reflect CPP taking effect post 1 December 2019. 	<p>Noted.</p> <p>The DPIE are working to amend the EP&A Act EP&A Regs to amend inconsistencies and provide requirements for reporting on CPPs. As of 13 September, DPIE were aiming for October Bill to have amendments gazetted prior to 1 December 2019. Council Officers intend to seek further clarification from the DPIE on this matter.</p>
Peter Monks, Director, Planning, Environment & Regulatory Services Received by email 03/09/2019	<ul style="list-style-type: none"> • Clarification sought on the role of the WLPP and Councillors in determining development applications. 	<p>Noted.</p> <p>Per Division 4.2 clause 4.8 of EP&A Act - the functions of a council as a consent authority are not exercisable by the councillors. They are exercisable on behalf of the council by the local planning panel or by delegation. Per Division 2.5 clause 2.18 of the EP&A Act - Councillors are ineligible to be panel members.</p> <p>Further, per the 'Code of Conduct for Local Planning Members' approved by the Minister under clause 28 Schedule 2 of the EP&A Act -</p> <ul style="list-style-type: none"> • panel members must disclose any lobby efforts by Councillors, property developers, real estate agents • panel members must not approach a Councillor, or if approached by a Councillor must not discuss any application that is either before the panel or will come before the panel at some future time, except during a panel meeting where the application forms part of

		<p>the agenda and the Councillor has a right to be heard by the panel at the meeting [in the same manner as any commentator].</p> <p>Finally, per Part 4 of the 'Local Planning Panels Direction – Operational Procedures' as a Direction of the Minister under section 9.1 of EP&A Act - Panel members are not to discuss any matter to be considered (now or in the future) by the panel with Councillors, the applicant, consultants etc. outside of the panel meeting.</p> <p>The Waverley CPP has been amended to clearly outline the role of Councillors and the WLPP in decision making (refer to p.19).</p>
	<ul style="list-style-type: none"> Table 5 – clarification sought on when a development application is referred to the WLPP for determination. 	<p>Noted.</p> <p>A development application will be determined by the WLPP where there is a conflict of interest, contentious development, departure from development standards or sensitive development as defined by the Local Planning Panels Direction located at https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/local-planning-panels-direction-development.</p> <p>The Waverley CPP has been amended to reflect these requirements (refer to Table 5, p.20).</p>