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Nature Conservation Saves for Tomorrow

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Secretary
NSW Department of Planning and Environment
GPO Box 39
SYDNEY 2001

Submission

NSW Department of Planning Draft Community Participation Plan

The Blue Mountains Conservation Society (BMCS) is a community based volunteer organisation with over 800 members. It is the oldest continuing environmental organisation in the Blue Mountains. The goal of the Society is to promote the conservation of the environment in the Greater Blue Mountains region. We are pleased to have the opportunity to comment on the Draft Community Participation Plan.

The BMCS has a long history of engagement in strategic planning and development assessment. This included the development of Blue Mountains LEP 2015 where the Society campaigned for a new LEP which recognised the significance of the World Heritage Area to the Blue Mountains and included special provisions that protected and enhanced it. The Society also lodges numerous submissions to development applications which have the potential to have negative environmental impacts within the greater Blue Mountains. We have appeared before the Land and Environment Court and Independent Planning Commission (formerly Planning Assessment Commission) hearings as objectors.

The Society has the following comments in relation to the Draft Community Participation Plan.

Exhibition Timeframes

The plan making and development assessment mandatory timeframes are inadequate if the goal is meaningful community engagement. Planning and development assessment documents are complex, long, dense and hard to understand for the average community member. For example a recent large scale development which the Society put in submission for, which was decided upon by a regional planning panel, the assessment documents were nearly 200 pages long. EIS documents for major developments can be long and include numerous supporting technical studies in various disciplines.

If the department is serious about community engagement, the timeframes in the draft Community Participation Plan (CPP) should all be doubled. In other words,

- (i) the 14 day period should be extended to 28 days for all modifications of consents and for development consents which are not designated or state significant development applications. In the Society's experience, modifications to consents can propose significant changes, such as extending the area where mining can occur or including a number of unrelated changes with differing impacts, for instance, increasing annual mining production and changing where reject is placed;
- (ii) the 28 day periods should be extended to 45 days for other all plans and designated or state significant development applications.

Amended development applications, where the amendments are substantial and are not minor, should be re-exhibited for 28 days.

All SEPPs, given their state-wide application, should have a mandatory not discretionary public exhibition period of 45 days, as should draft legislation and state-wide policies and guidelines.

Public exhibition period which fall during the over the Christmas and New Year period (December 22 to January 5) should be prohibited unless they are extended for a minimum 14 days above the mandatory period.

Determinations

If community members have gone to the effort of making submissions then the decision maker needs to clearly state how the issues raised have been considered in reaching the decision.

Frequently the Society has found that the documentation regarding decision-making is inadequate, or the documentation indicates that issues we have raised have not been considered, or have been considered in a cursory manner. In a recent example in regard to a development proposal, the Society raised issues regarding the legality of what was being proposed, which in initial documentation to Council (who were the determining authority) was ignored. Subsequent

lobbying resulted in a deferral of the decision and further investigations revealed the Society's legal concerns were legitimate and the development was amended

Public hearings of planning panels

The Society has attended a number of public hearings in regard to regional and state significant development applications.

The Society experience is the processes and conduct of these panels is extremely variable and ad hoc. This includes very short prior notification of hearings and limits on individual speaker times not adhered to. As well, new information not contained in assessment documents is introduced by the applicant at the hearings which means the community cannot provide any input or review of that new information.

The Plan needs to include minimum standards and appropriate processes in relation to public hearings in regard to regional development applications.

Enforcement of the Community Participation Plan

The Plan contains many worthy aspirations and goals which the Society supports, especially the approach outlined in Table 2 and 3. However, we are concerned about how the plan will be enforced especially if requirements are not mandated or legislated. Who will enforce the Plan? The Department of Planning? What penalties or consequences will apply if community participation is not consistent with the Plan?

Level of community participation

Table 3 identifies three levels of community participation. The Society believes that all developments which have a significant social, environmental or economic impact on local communities as well as all strategic planning processes should aim to have Level 3 community participation. The level of community participation in terms of most development assessment and strategic planning is currently at Level 1 or Level 2 at best. To achieve real input and community ownership Level 3 participation is required most of the time, and not as is currently the case very rarely or only happens only when the community lobby for it to occur.

Skill development and resourcing

Good in depth community engagement takes skill, time and resources, especially Level 3 community participation. It is not clear from the draft plan how the department or councils will develop the skills and knowledge to effectively engage with communities, including using innovative approaches including new technologies and web based systems. It is also not clear how these new processes will be funded.

Conclusion

If the department is serious about genuine community participation there needs to be major and sustainable shift in the way the department and councils engage with community. The Society does not believe this Plan will achieve this change.

Thank you for the opportunity to comment on the draft community participation plan

A handwritten signature in black ink that reads "Madi Maclean". The signature is written in a cursive style with a large initial 'M' and a trailing flourish.

Madi Maclean
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