

Draft Submission on the Community Consultative Committee Guidelines, State- Significant Projects

April 2016

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Opening:

Local Government NSW (LGNSW) is the peak body for councils in NSW, representing all 152 NSW general-purpose councils and associate members including 12 special-purpose county councils and the NSW Aboriginal Land Council. In essence, LGNSW is the organisation for all things Local Government in NSW. LGNSW facilitates the development of an effective community-based system of local government in NSW.

Purpose:

LGNSW welcomes the opportunity to respond to the Department of Planning and Environment's revised Community Consultative Committee Guidelines. LGNSW understands the important role that Community Consultative Committees play in the assessment and regulation of State-significant projects by providing a forum for open discussions between companies, communities and local councils about the project.

Our response to the revised Guidelines follows the sections of the Guidelines document and covers the:

- revised procedures for the establishment of the committees
- revised criteria for community representatives
- new criteria for environmental representatives
- processes to establish committees
- conduct of meetings

Overall comments

LGNSW welcomes the revised Guidelines, which provide a clearer model for how a Community Consultative Committee (CCC) could operate.

Currently councils provide official advice in writing to the Department of Planning and Environment (DOPE) on State-significant projects within a strict period of time. As a member of the CCC, the key issue for councils will be to receive updated information on the implementation of any major State-significant project.

It would be helpful for the Guidelines to reference what council's role is in the approval of, or expansion of, a State-significant project or reference to where that is explained. Councils require a formal and independent process to assess a proposed new State-significant project, provide advice on the potential impact of the proposed project on local infrastructure and any regional or local development levies arising from the development that are required.

Specific comments on elements of the Guidelines

LGNSW has summarised our specific comments against elements of the Guidelines as shown in the following table.

Element of Guidelines	Comment
<p>Purpose the Community Consultative Committee</p> <p><i>To provide an open a forum / open discussion on issues relevant to a project (page 2)</i></p>	<p>While LGNSW supports open discussion of issues, we believe there is little value in allowing discussion if there is no guarantee that the discussion actually informs decisions.</p> <p>The Guidelines do not clearly explain what is to happen with the outcomes of this discussion, how it is formed into recommendations and how these recommendations are transmitted to DOPE.</p> <p>Equally there is no onus on DOPE to respond to the recommendations of the CCC. There needs to be clearer accountability of the DOPE back to the CCC.</p> <p>In addition, the Guidelines do not specify a role for the CCC in:</p> <ul style="list-style-type: none"> • Advising the State Government on social, economic and environmental issues relevant to the proposed or approved project, or • Providing feedback to the Company on the implementation phase of the project by enabling communities to have direct access to the Company on planning and performance issues.
<p>Establishment of the Committee</p>	<p>There are no specified criteria for determining whether a CCC is set up before a project is approved or established to manage or provide feedback on the implementation process of an already approved project.</p>
<p>Members of the Committee</p> <p><i>One independent chair</i></p> <p><i>Three to five community</i></p> <p><i>One council</i></p> <p><i>2 to 3 Company</i></p> <p><i>(page 3)</i></p>	<p>The Company nominates an independent Chair and the Department chooses from the list of nominees. This is reasonable.</p> <p>Some more detail on membership is required. It is not clear whether a councillor can be a community representative. Nor is there much guidance on who the appropriate council representative should be (what level of staff member, what division/department etc). The Guidelines only state that each Committee should have one council representative to be appointed by the council. It would be reasonable for this decision to be left to council's discretion.</p> <p>No State agencies are identified as members of the CCC. This puts the onus on the CCC to identify which agencies are relevant to their discussion and to invite them to attend when appropriate.</p> <p>Similarly it is important to ensure that the community representatives cover a broad range of community interests, cultural and demographic backgrounds. It is not clear if councillors can be community representatives.</p> <p>There is some confusion created in the document as the term</p>

Element of Guidelines	Comment
	<p>'community representatives' is used to describe those representing the local community or environment interests, but it is also used to describe only local representatives. For example, page 5 states the Independent Chairperson is to "forward the names and applications of all community representative applicants to the Department". It is assumed that the broader definition of community representative is being used here, but this could be interpreted as the opposite. Clarity in terminology is needed.</p>
<p><i>Appointing community representatives</i> (page 5)</p>	<p>From the community participation perspective, it is important to ensure that access is at the forefront of every step in the Community Consultative Committee process.</p> <p>LGNSW suggests that it might be appropriate to allow more than 4 weeks to advertise and promote the vacancy, as well as to advertise in a range of communication formats, not just printed media.</p> <p>The Company should also consider advertising for community representatives through more diverse forms such as the Company's website, the project's Facebook page, and approaching the local youth council etc.</p>
<p>Committee meetings</p> <p><i>Location of meetings</i> (page 6)</p> <p><i>Minutes of meeting</i> (page 7)</p> <p><i>Conduct of CCC members</i> (page 7)</p>	<p>In alignment with social justice principles, Committee meetings should be held in accessible and centrally-located venues, and agenda and minutes should be available in a range of accessible formats.</p> <p>The deadline of 28 days for the meeting minutes to be published on the Company's website seems too long, given meetings are held quarterly, 14 days is more acceptable.</p> <p>The code of conduct appears similar to the Local Government code of conduct, yet it appears to allow members to declare an interest without withdrawing from the process, presumably because they make no decisions.</p> <p>While this has merit there needs to be a 'reality check' to ensure that all the CCC representatives will be required to ensure that their input is based on the group that they are appointed to represent.</p> <p>In relation to pecuniary and other interests, it is unclear how Company representatives can be entirely independent when they represent the Company which employs them.</p>

Element of Guidelines	Comment
<p><i>Committee training (page 8)</i></p> <p><i>Committee funding and remuneration (page 8)</i></p>	<p>More information is required on how the Secretary will ensure proper conduct, and that all pecuniary interests are tabled and do not affect decision-making.</p> <p>The Independent Chairperson may request the replacement of any member who fails to attend Committee meeting regularly. 'Regularly' should be defined.</p> <p>To avoid bias or uneven treatment of different consultative Committees, funding or other assistance to gain training or skills for Committee members should be provided by the Department, not by the Company. Likewise decisions on the reimbursements of personal expenses of Committee members should not be left to the discretion of the Company.</p> <p>The Company should be obliged to provide funding so as to ensure active member participation and to address any economic barriers to community participation.</p>
<p>Responsibilities of the Company <i>Information / issues of relevance</i></p>	<p>The Committee appears to rely on the Company representatives for information about the State-significant project. There appears to be limited ways of obtaining independent analysis or monitoring of the project unless this is sought from agencies or councils. Information needs to be benchmarked and subject to scrutiny to ensure best practice.</p> <p>The Guidelines suggest that the CCC is more concerned with the public face of the State-significant project rather than addressing any technical issues affecting the implementation of the project.</p>
<p>Powers and responsibilities of the CCC and council <i>Dispute resolution</i></p>	<p>The CCC appears to be based on a co-operative management style that assumes that all parties will be in general agreement with the State-significant project and its implementation.</p> <p>The model for the CCC assumes an educative and consultative process is adopted by all members of the CCC. This is deliverable where there is open and transparent information on agreed facts.</p> <p>This model is less workable where there are more fundamental differences and views on the process or where the environmental performance of the Company is under question.</p> <p>There needs to be more clarity around the role of the CCC in assessing</p>

Element of Guidelines	Comment
	the performance of the Company and that of a state agency or council to regulate such practice.
<i>Communication with the broader community</i>	<p>The Guidelines state that “there is a presumption that all documents and other information considered by the Committee should be generally available to the community”. There needs to be some guidance on when this information will be available: before or after the Committee meeting, how many days after, in what form (website, newsletter subscription) etc.?</p> <p>LGNSW supports the requirement that all annual review reports, audit reports, monitoring reports are to be distributed to CCC members at the same time as they are submitted to agencies.</p>

Conclusion:

LGNSW welcomes the opportunity to comment on the Department of Planning and Environment’s revised Community Consultative Committee Guidelines. LGNSW considers that the role of the CCC needs to be carefully articulated in relation to both the monitoring of the implementation of the State-significant project as well as in communicating the concerns of the local community. To this end, LGNSW recommends that the Guidelines provide a clear process for the CCC to provide advice to the DOPE and for the DOPE to respond to that advice in a formal and documented manner.

Community Consultative Committees play an important role in the assessment and regulation of State-significant projects by providing a forum for open discussions between companies, communities and councils about the project. The CCCs need to be able to draw on the technical advice of agencies (transport, infrastructure etc) in order to inform their discussions. The processes for accessing technical advice need to be more clearly articulated in the Guidelines.