

Mayor: Cr K Milne

Councillors: P Allsop
R Byrnes
C Cherry (Deputy Mayor)
R Cooper
J Owen
W Polglase

LATE Agenda

**Ordinary Council Meeting
Thursday 21 November 2019**

held at
**Council Chambers, Murwillumbah Civic & Cultural Centre,
Tumbulgum Road, Murwillumbah**
commencing at 5.30pm

Principles for Local Government

The object of the principles for Tweed Shire Council, as set out in Section 8 of the Local Government Amendment (Governance and Planning) Bill 2016, is to provide guidance to enable council to carry out its functions in a way that facilitates a local community that is strong, healthy and prosperous.

Guiding Principles for Tweed Shire Council

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by Tweed Shire Council:

- (a) Provide strong and effective representation, leadership, planning and decision-making.
- (b) Carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Work with others to secure appropriate services for local community needs.
- (h) Act fairly, ethically and without bias in the interests of the local community.
- (i) Be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by Tweed Shire Council (subject to any other applicable law):

- (a) Recognise diverse local community needs and interests.
- (b) Consider social justice principles.
- (c) Consider the long term and cumulative effects of actions on future generations.
- (d) Consider the principles of ecologically sustainable development.
- (e) Decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Council should actively engage with the local community, through the use of the integrated planning and reporting framework and other measures.

Items for Consideration of Council:

ITEM	PRECIS	PAGE
LATE ITEMS		5
LATE ITEM FROM DIRECTOR PLANNING AND REGULATION		5
32	LATE [PR-CM] Community Engagement and Participation Plan	5

THIS PAGE IS BLANK

LATE ITEMS

LATE ITEM FROM DIRECTOR PLANNING AND REGULATION

32 LATE [PR-CM] Community Engagement and Participation Plan

SUBMITTED BY: Strategic Planning and Urban Design and Communication and Customer Experience

mhm



Leaving a Legacy

Looking out for future generations



Making decisions with you

We're in this together

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- | | |
|-------|--|
| 1 | Leaving a Legacy |
| 1.4 | Managing Community Growth |
| 1.4.1 | Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment. |
| 2 | Making decisions with you |
| 2.2 | Engagement |
| 2.2.2 | Communications – To inform, educate and engage |

ROLE: **Leader**

SUMMARY OF REPORT:

This report provides a summary of the public exhibition feedback received on the draft Community Engagement and Participation Plan (CE&PP) and seeks Council's adoption of the revised plan.

The CE&PP has been prepared to meet the *Community Participation Plan* (CPP) statutory requirements under the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). In order to integrate Council's commitment to community consultation and public notification into one streamlined document, the plan also integrates the existing *Community Engagement Strategy* (CES) and the *Tweed Development Control Plan A11 – Public notification* (DCP A11). The CES will be superseded and DCP A11 will be repealed following the adoption of the CE&PP.

The CE&PP was exhibited from 15th October to 15th November 2019 and included three community drop-in sessions hosted at Banora Point Community Centre, Kingscliff Community Hall and the Murwillumbah Civic Centre with five people attending across the three venues. In addition a *yoursaytweed* project page was established recording 183 visits and the CE&PP

was presented and discussed at a Council Stakeholder Forum on 29 October 2019. A total of four (4) submissions were received. In addition feedback was also received from various business units within Council and the Department of Planning, Industry and Environment (DPIE).

The key issues raised within the community conversation sessions, stakeholder forum and written submissions included:

- Call for greater accountability of Councillors decisions;
- Mechanisms for the community to appeal decisions of Council;
- Request to weight views proportionate to impact on different affected parties;
- Request to include 'empower' in the IAP2 spectrum explanations; and
- Request to amend consultation matrix to replace 'recommended' community conversations with 'not required' for Level 4 Low Impact locality based projects.

Whilst comments calling for greater accountability of Councillor decisions and greater mechanisms for the community to appeal decisions are noted, both the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979* provide clear statutory direction relating to the recording of voting on planning matters and appeal rights. As such consideration of these issues, which are essentially seeking State controlled legislative reforms, are beyond the scope and intent of the CE&PP.

In consideration of other feedback received the revised CE&PP has made the following changes:

- Include reference to existing legislated appeal processes;
- Include reference to 'empower' in the IAP2 spectrum explanations;
- Amend consultation matrix to include community conversations for Level 4 Low Impact locality based projects;
- Remove community conversations which is communication tool rather than means of notification from the notification column across tabulated strategic planning functions; and
- A number of minor editorial corrections.

Adoption of this plan will satisfy the legislative requirements under the EP&A Act which requires Councils to have an endorsed Community Participation Plan provided to the NSW Planning Portal. Once the plan is published to the NSW Planning Portal the plan becomes effective. DPIE timeframe for publishing the plan to the portal is 1 December 2019. It is noted that this CE&PP will not be published by this date and as such its adoption is required as a priority. Until such time as the CE&PP is published, notification requirements defer to the basic standard notification and timeframe requirements of Schedule 1 of the EP&A Act will apply.

The revised CE&PP is now recommended for adoption.

RECOMMENDATION:

That the:

- 1. Summary of public submissions received in response to the public exhibition of the Draft Community Engagement and Participation Plan is received and noted;**

2. **Community Engagement and Participation Plan, as amended and detailed in report, be endorsed by Council;**
3. **Community Engagement and Participation Plan be forwarded to the Department of Planning, Infrastructure and Environment for publication on the NSW Planning Portal as required by s 2.24 of *the Environmental Planning and Assessment Act, 1979 (NSW)*; and**
4. **Repeal the *Tweed Development Control Plan Section A11 Public Notification* be advertised in accordance with Clause 23 of the *Environmental Planning and Assessment Regulation 2000*.**

REPORT:

Background

This report provides a summary of submissions and feedback received during the public exhibition of the Community Engagement and Participation Plan (CE&PP) and now recommends its endorsement and adoption.

Council has a current Community Engagement Plan under the requirements of the Local Government Act 1993. New provisions under the *Environmental Planning and Assessment Act, 1979* (NSW) (EP&A Act) require a Community Participation Plan, specifically for land use planning matters. The draft Community Engagement and Participation plan combines both requirements into the one plan to streamline Council's commitment to community engagement and public notification of planning functions into one document. This will satisfy the legislative requirements under the EP&A Act which requires Councils to have an endorsed Community Participation Plan provided to the NSW Planning Portal by 1 December 2019.

The preparation of the CE&PP provided an opportunity to review and update the existing Community Engagement as well as bring the current public notification of development proposals into alignment with the Tweed Local Environmental Plan (LEP) standard instrument land use zones and land use definitions.

In doing so it is proposed to replace the Community Engagement Strategy and to repeal *Tweed Development Control Plan (DCP) A11 – Public notification* as required under the EP&A Act Clause 23 following the adoption of the CE&PP.

Public exhibition and community engagement

In accordance with Council's resolution of the Planning Committee meeting on the 3rd October 2019, the draft CE&PP was placed on public exhibition from 15th October to 15th November 2019.

As part of the public exhibition period three community drop-in sessions were hosted at Banora Point Community Centre, Kingscliff Community Hall and the Murwillumbah Civic Centre with five people attending across the three venues. The draft CE&PP was made available at Council offices and a *yoursaytweed* project page was established recording 183 visits with the plan being downloaded 30 times.

The draft CE&PP was also presented and discussed at a Council Stakeholder Forum event on the 29th October 2019 which was attended by representatives of residents and rate payer groups, environmental groups, business and industry groups.

In addition to recorded feedback during the community conversations and the community stakeholder forum a total of 4 submissions have been received. Feedback has also been received from business units from within Council.

A summary of submissions and feedback received during the public exhibition period and consideration of those key issues follows:

Submission Issue	Considerations	Action / Recommendation
<p>Support for the approach of combining the CES and the CPP into one document</p>	<p>There was general support for the approach of combining the current Community Engagement Strategy and the requirements of the Community Participation Plan into a single, consolidated document, which is easier for the community to understand.</p> <p>Similarly there were favourable comments relating to the level of consultation Council currently undertakes.</p> <p>This support is noted.</p>	<p>Recommendation: Noted</p>
<p>Accountability of Councillor Decisions</p> <p>Request a requirement for individual Councillors to provide reasons for their decisions, particularly when decisions are contrary to community feedback.</p> <p>Request a requirement to publish the individual Councillor’s reasons for making a particular decision and making those responses available to the media and published on the TSC website.</p> <p>Reference to Chapter 13, Section 406 of the Local Government Act.</p> <p>There are assertions that the Plan ensures “accountability” and that “reasons” for decisions are made clear. However, the Plan does not specify who is responsible and accountable for ensuring that the standard of those “reasons” meets community’s needs and expectations.</p>	<p>One of the stated CE&PP Principles of Community Engagement and Participation states:</p> <p><i>Decisions are made in an open and transparent way and the community is provided with reasons for those decisions (including how community views have been taken into account).</i></p> <p>Council reports on planning matters provide detailed information on background and context to planning matters, discussion on key planning issues and an analysis or review of comments and submissions made during time of public exhibition. Consideration on each of these matters directly informs recommendations and is outlined in a Council report.</p> <p>In the case of development applications there is a requirement under section 100 of the EP&A Regulation 2000 that if the application has been refused, or granted subject to conditions (other than conditions prescribed under section 4.17 (11) of the Act), the consent authority’s reasons for the refusal or for the imposition of those conditions are to be included in a notice of determination.</p> <p>The key point which this submitter seeks to address is where Councillor decisions depart from Council officer’s</p>	<p>Recommendation: Whilst no further changes have been included in relation to individual Councillors formally representing reasons for a decision, an additional note has been added (Page 22) within Section 09 ‘What Council does with your feedback’ noting that Councillors are available to be contacted by the public. Contact details for Councillors are listed on Council’s website.</p>

Submission Issue	Considerations	Action / Recommendation
	<p>report recommendations, particularly in relation to strategic planning functions as opposed to development assessment functions. In this regard the requirements of Council to record voting on planning matters is prescribed under Section 375A of the Local Government Act 1993:</p> <p><i>The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.</i></p> <p>It is noted that individual Councillors providing reasons for decisions on planning matters is not specifically prescribed under this section. Making provision for Councillors as individuals to record reasons for decision making and then making public and/or publishing those expressed reasons would thereby extend beyond what is currently required under legislation.</p> <p>Whilst the way in which Council articulates and communicates key Council decisions is a key principle of community participation and engagement, it does so within the limitations of current legislative requirements. In this regard consideration of planning decisions which would in effect extend the requirements of the LG Act and EP&A Act are and beyond the scope of the CE&PP.</p> <p>The reference to Chapter 13 Section 406 of the LG Act relates to the Integrated reporting framework. The CE&PP meets both the requirements for a Community Engagement Strategy and the Community Participation Plan requirements of the EP&A Act. The integrated reporting framework is the</p>	

Submission Issue	Considerations	Action / Recommendation
	mechanism for Council to develop and be accountable for sustainable and longer term strategic planning, resourcing and delivery. This CE&PP forms part of this framework.	
<p>Communicating reasons for decisions</p> <p>Submission states: In the Plan, Chapter 13 of the Local Government Act has been 'read down' to the point that the community has no formal right or means to obtain reasons for Council plans, strategies, programs and reports.</p> <p>Submission states: It is acknowledged that the new legislation requires that reasons for decisions are required in relation to statutory functions (e.g. SEPP's, LEP's, Community Engagement/Participation Plans, Regional / District Plans). However, there is nothing in the plan which stipulates the timing for the delivery of those reasons.</p>	<p>The CE&PP has been prepared to embody and reflect the current statutory requirements for consultation and notification practices under the LG Act 1993 and the community participation plan requirements under the EP&A Act 1979.</p> <p>Refer to comments above in the 'accountability of Councillors' reference.</p>	<p>Recommendation: No further change.</p>
<p>Council decision makers</p> <p>The Plan does not make it clear that the only decision makers in Council are the councillors.</p>	<p>The roles and responsibilities including decision making functions are identified in the LG Act 1993 and the EP&A Act 1979. The CE&PP refers to both Acts being fundamental to the local government structure and legislative framework. The LG Act 1993 sets out the purpose, responsibilities and powers of Councillors and bodies that constitute the system of local government.</p>	<p>Recommendation: An additional note has been added to the diagram on Page 9 which outlines Council decision making within the context of roles and responsibilities as established by the LG Act 1993.</p>
<p>Mechanism for the community to appeal decision of Council</p>	<p>The key point which this submitter seeks to address is where Councillor decisions depart from the views of a</p>	<p>Recommendation: Include reference to existing legislated</p>

Submission Issue	Considerations	Action / Recommendation
<p>Request to commit to create a mechanism for the community to appeal decision of Council.</p> <p>The plan does not explain how Local Strategic Planning can be appealed.</p>	<p>particular sector of the community what recourse for 'appeal' or further consideration would be available.</p> <p>Appeal rights are the means by which applicants, objectors or any person can appeal a decision made by a consent authority in relation to a development application.</p> <p>When the Minister for Planning (or their delegate such as Council) determines a development application, in some cases an applicant or third party (objector or any person) can appeal to the Land and Environment Court (the Court) against the merits or lawfulness of a decision. Merit appeal provisions are set out in the EP&A Act in <i>Part 8 Reviews and Appeals</i>.</p> <p>Judicial appeal rights are based on process and the legality of a decision. These provision are set out in s 9.45 of the EP&A Act.</p> <p>Statutory appeal rights do not currently exist for other strategic planning functions outside of processes provided for under the EP&A Act, such as Local Environmental Plans, Development Control Plans and the like.</p> <p>Whilst there is opportunity for the CE&PP to reference the appeals provision within the questions and answers section of the plan, making provision for an additional locally based appeals process would extend beyond what is currently regulated under legislation and beyond the scope of the CE&PP.</p>	<p>appeal processes in Section B5 Questions and Answers on Page 36.</p>
<p>Community reference panels (CRP)</p> <p>Request for CRP to be formed for Shire wide</p>	<p>The submission recommends that a community reference panel be established in the formulation of strategic plans which have a bearing on the shire as a whole or which focusses on significant and identifiable</p>	<p>Recommendation: No further change.</p>

Submission Issue	Considerations	Action / Recommendation
<p>projects or projects which focus on a specific sector.</p> <p>CRP to be selected by the community.</p>	<p>community sector. The panel would assist the Council to identify those issues which are contentious and need clarification, examination and publication of alternate options.</p> <p>The creation of focus groups as a communication tool is included within the engagement and participation matrix where it is identified across all project categories (Level 01 – 04) as ‘optional’. This means that whilst this is identified as an appropriate form of engagement, there are exceptions and the formation of focus groups in relation to specific projects will depend on timing, resources, budget and audience.</p> <p>In practice Council has recently formed a number of external reference panels to liaise with Council on specific key Council planning projects including the Rural Land Strategy, Rural Villages Strategy and the Kingscliff Locality Plan. This is in addition to Council consulting other established community, business and industry stakeholder groups.</p> <p>Submission comments in relation to the varying degree of effectiveness CRP’s have on the outcome of specific projects is noted. However a clear delineation needs to be made on the role and function of a CRP’s as a think tank or advisory body rather than a decision making body. As such there will be occasions where the advice or consensus of a CRP will differ to that of the elected representatives. The important aspect is that all views including those expressed by CRP’s are appropriately tabled and considered in formulating decisions as part of engagement processes.</p> <p>As an advisory body to Council it is appropriate for the CRP membership to be the outcome of an open and</p>	

Submission Issue	Considerations	Action / Recommendation
	<p>transparent Council led procurement process. In practice, CRP membership is called through an expression of interest tender where applicants are required to submit demonstrated experience, skills or representation in a related field to a specific project. Applicants are reviewed internally and selected on the basis of being able to contribute to the CRP based on stated criteria within the EOI application. This ensures members are selected who will be best placed to contribute and representative of a wide range of interests whilst retaining objectivity and governance of the process. In this regard a CRP selected by the community on behalf of Council would have difficulty in achieving the same level of objectivity and governance.</p> <p>There have however also been examples where community groups, as selected or retained by the community, have operated independently of Council CRP frameworks to good effect and been able to demonstrate clear objectivity and make valuable contributions to Council led projects during engagement processes.</p>	
<p>Affected parties</p> <p>Request to weight views proportionate to impact on different affected parties.</p>	<p>The engagement and participation matrix (Page 16) sets out the communication process including notification frameworks for Council projects based on a determined level of community impact and scale. The notification requirements for all planning functions are set out in Part B of the plan. Further, Section B5 identifies who will be notified and how submissions will be considered.</p> <p>The concept of weighting feedback from 'affected parties' proportionate to level of perceived or real impact goes against the objectives and principles of the CE&PP.</p>	<p>Recommendation: No further change.</p>

Submission Issue	Considerations	Action / Recommendation
	<p>One of the key principles of the CE&PP is that <i>community participation is inclusive and Council actively seeks views that are representative of the community</i> and that <i>decisions are based on evidence-based information and the representative views of the broader community.</i></p> <p>These principles recognise that not all community views expressed will be the same and that different sectors and individuals within the community will take a different stance on different issues. The important consideration is that each of those individuals and community sectors having the right to express their point of view and be considered within the decision making process. Implementing submission review processes that give weight or seek to provide a hierarchy of consideration to certain sectors or individuals undermines the principles of transparent, balanced and inclusive decision making processes and governance.</p>	
<p>Engaging Rural Communities</p> <p>The plan makes no provision for engagement and participation by rural communities who have their engagement and participation involvement adversely affected by distance, poor cohesion, communications, and diverse localities.</p>	<p>The CE&PP establishes a community engagement process and framework for all Tweed Shire residents including the rural community.</p> <p>This includes both face to face and online media options.</p>	<p>Recommendation: No further change.</p>

Submission Issue	Considerations	Action / Recommendation
<p>Community scoping of project briefs</p>	<p>The submission advocates for a role for the community to play to scope a project brief prior to its commencement.</p> <p>In practice there are multiple opportunities for the community to have input into the future strategic direction of corporate, community and planning functions of Council. The decision to proceed with a particular 'new' Council project will often be preceded by either a direction in the community strategic plan or representations by either the community and or Councillor representing the community.</p> <p>The initial stage of a project is focussed on shaping the project brief. This can take many forms. For example, the CE&PP the brief was established by a legislative requirement for specific content that must to be included. By comparison, the scope or brief for a locality plan will only be developed following initial consultation with that local community. In many instances the scope and brief will be refined or broadened as a project develops and more information comes to hand.</p> <p>In this regard the development of a project brief with the community is typically and implicit as part of the plan making methodology.</p>	<p>Recommendation: No further change.</p>
<p>IAP2 Spectrum - Empower</p> <p>Request to include 'Empower' in the IAP2 spectrum explanations.</p>	<p>The submissions identified that the category of <i>empower</i> has not been included in the Engagement and Participation Matrix for Tweed Shire Council projects (Page 14).</p> <p>Under the IAP2 engagement spectrum, empower as an engagement process places the final decision making in the hands of the public. The application of this category is most relevant to an election or referendum process. On this basis it is recommended that empower</p>	<p>Recommendation: Add Empower with the following description:</p> <p><i>Empower</i> <i>To place final decision making in the hands of the public. We will implement what you decide.</i> <i>Every four years the community is</i></p>

Submission Issue	Considerations	Action / Recommendation
	be added to the Engagement and Participation Matrix.	<i>empowered to make the final decision on the Councillors who will represent them.</i>
Questions how the IAP2 standards to “Inform, Consult, Inform and Collaborate” are determined.	Each Council project which will be the subject of community consultation / engagement is internally by Council staff to determine the likely ‘community level’ and ‘community scale’. This initial determination is based off a number of contributing factors including Council resolutions, statutory requirements and previous consultation practices as well as budget and staff resourcing available for a given project.	Recommendation: No further change
<p>Amendment to the Engagement and Participation Matrix</p> <p>Request to amend consultation matrix to replace ‘recommended’ community conversations with ‘not required’ for Level 4 Low Impact locality based projects.</p>	<p>Feedback has identified that certain low scale locality based projects such as amendments to Plans of Management (PoM) may not warrant the need to host community conversations especially where there are minor amendments proposed. Further, in certain cases for PoM’s there may be a need to hold a public hearing and as such the need to also host a community conversation may represent duplication of consultation process.</p> <p>In the case of other locality based planning functions such as the preparation of locality plans or strategies which would typically have a higher level of community impact and community scale, hosting community conversations would still be deemed an appropriate communications tool.</p>	Recommendation: Amend the Engagement and Participation Matrix to replace ‘recommended’ with ‘not required’ for Level 4 ‘Low impact, locality based’ projects.
<p>Notification of planning functions</p> <p>Remove community conversations, which is a communication tool rather than means of notification, from the notification column across strategic planning functions.</p>	<p>Part B of the CE&PP tabulates the range of different statutory and strategic planning functions with corresponding mandatory and non-mandatory exhibition periods and method of notification.</p> <p>It is noted that the exhibited draft CE&PP included community conversations as a method of notification when in practice it is a</p>	Recommendation: Remove community conversations which is a communication tool rather than means of notification from the notification column across the strategic planning functions.

Submission Issue	Considerations	Action / Recommendation
	<p>communications tool. The Engagement and Participation Matrix (page 16) identifies the communication tools which would be applicable depending on the determined level of community scale and impact. As such the removal of community conversations from the notification column of planning functions is recommended.</p>	
<p>Mail out notification</p> <p>Request that mail out be used as a primary notification tool.</p>	<p>The submission suggests the best way to keep the community informed is via mail. This is due to many people not engaging in online and digital platforms and who may miss notification of community consultations when advertised in the newspaper. As such the most effective way to communicate consultation sessions and seek responses to surveys is through a mail out process.</p> <p>The use of mail out is an identified notification and communication tool. Within the Engagement and Participation Matrix (Page 16) direct mail / notification is identified as an "optional" and 'mail box drop' is recommended for 'level 3 projects which are locality based with a high impact.</p> <p>In this regard whilst it is recognised that a mail out or letter box drop may be an effective way of disseminating information, it is also an expensive form of notification. As such the use of mail out and letterbox drop needs to be considered in terms of the information which needs to be communicated, scale or geographic coverage of the project and potential for community impact.</p>	<p>Recommendation: Retain mail out and letter box drop as notification tools within the Engagement and Participation Matrix. No further change.</p>

Submission Issue	Considerations	Action / Recommendation
<p>Sustainability</p> <p>Inclusion of sustainability section addressing sustainable population.</p>	<p>The inclusion of a section on sustainability including addressing issues of sustainable population is not part of the scope and intended purpose of the CE&PP. These themes are addressed in a number of other Council policy and strategic planning projects.</p>	<p>Recommendation: No further change.</p>
<p>Specific use notification Requirements</p>	<p>This submission states that given Tweed's strong strategic planning process there is opportunity to reduce the notification of certain requirements for certain DAs in certain zones to expedite the approvals process.</p> <p>The submission also identifies opportunity for consideration of consistency with development that can be undertaken under the Exempt and Complying SEPP which does not require notification.</p> <p>The submission suggests the following amendments to the notification section of the CE&PP.</p> <ul style="list-style-type: none"> • Subdivision in the form of boundary adjustments only to be notified when additional lots or housing are proposed. • Animal boarding or training establishments, restaurants and cafes consultation above other typical uses appears unnecessary. • Suggest advertising and notification in the RU5 zone be pulled back given the broad range of uses encouraged and permitted. • Suggest advertising and notification in the business and industrial zones be pulled back to support economic investment and key projects in the Economic Development Strategy, such as health services, medical centres etc. By streamlining the DA process Tweed's Business and industrial zones will be more competitive. • Encourage reduction in the notification requirements for tourism 	<p>Recommendation: No further change.</p>

Submission Issue	Considerations	Action / Recommendation
	<p>and supporting uses in the tourism zone.</p> <p>The requirement to include the advertising and notification requirements in the CE&PP provided a timely opportunity to update the current provisions of <i>DCP A11 – Public Notification</i> in terms of a review of definitions, land use types to ensure currency with the Tweed City Centre LEP 2012 and TLEP 2014.</p> <p>The intent as part of this integration was to maintain the current structure of advertising and notification requirements by land use category (i.e. rural land permissible uses, residential land permissible uses) updated to reflect the current land use tables of the TLEP 2014 and TCCLEP 2012. As such rather than undertaking a comprehensive review of each of the land uses within each of the zones in terms of applicability of notification and advertising, they have been translated as a ‘best fit’ process to retain consistency with the current intent and practice of Council notification of DAs.</p> <p>Whilst the above suggestions have merit for consideration, they represent in some cases a significant shift from the way in which Council currently notifies and advertises development applications. As such assessing the implications of these notification amendments would require a greater level of review and community consultation beyond the scope and timeframe for adopting and implementing the CE&PP within the given statutory timeframe (1st December 2019).</p> <p>Note: It is recommended that these notification comments be revisited as part of a future and more comprehensive review of development application / land use notifications.</p>	

Submission Issue	Considerations	Action / Recommendation
<p>Communication of reasons for nominated notification /advertising process for particular development applications applicants / proponents.</p>	<p>The submission encourages Council to relay to the proponent and community the reasoning behind undertaking increased notification.</p> <p>Appendix 2 of the CE&PP lists which developments will be notified or advertised and how. This provides a greater degree of certainty and guidance for applicants on how certain development will be notified. In practice there are circumstances where upon internal review the notification requirements of a proposal are upgraded from either not notify to notify or from notify to advertised. The criteria which guides this notification assessment is identified in Section 5.2. In addition the land use tables include the following note:</p> <p><i>Council reserves the discretion to advertise, notify or not notify any development, whether listed or not listed, based on the nature of development scale and potential for impact.</i></p> <p>When a decision is made to increase notification requirements, an internal review team identifies the reasons for doing so. There is opportunity as part of internal processes to relay these reasons to the proponent as part of a return email typically sent with an invoice for notification fees. This suggestion will be recommended to Council's Development Assessment Working Group for consideration to achieve stronger alignment with one of the principles of community engagement and participation which states:</p> <p><i>Decisions are made in an open and transparent way and the community is provided with reasons for those decisions (including how community views have been taken into account).</i></p>	<p>Recommendation: No further change to document.</p>

Submission Issue	Considerations	Action / Recommendation
	No amendments would be required to the CE&PP document.	
<p>Review period</p> <p>Request that the plan consider incorporating a review period</p>	<p>The legislation recommends incorporating a review period and it is noted that whilst this is not currently mandatory, this will potentially be required in the future.</p> <p>Should a review period be considered it is appropriate that this would be undertaken with the review of the Community Strategic Plan and the Local Strategic Planning Statements with an incoming Council.</p> <p>Recommended: A note be included within Part 01 as follows:</p> <p>Note: It is recommended that, where required, this plan be reviewed as part of the wider strategic direction setting of the Council. This could be as part of the Community Strategic Plan and/or the Local Strategic Planning Statement</p>	<p>Recommendation: Include editorial revision as follows:</p> <p>A note be included within Part 01 as follows:</p> <p>Note: It is recommended that, where required, this plan be reviewed as part of the wider strategic direction setting of the Council. This could be as part of the Community Strategic Plan and/or the Local Strategic Planning Statement.</p>
<p>Non-statutory planning functions</p>	<p>An additional note has been included in association <i>Table 2 Strategic Planning and Non-mandatory Exhibition Timeframes</i> to reflect Council led projects and policies which do not have mandatory timeframes. These include but are not limited to preparation of concept plans or master plans for open space areas, advertising of new Council policies such as alcohol free zones or off leash dog areas etc. Whilst mandated exhibition periods are not statutorily prescribed, these projects would be appraised against the engagement and participation matrix to determine the appropriate form of consultation and engagement.</p>	<p>Recommendation: Include editorial revision as follows:</p> <p>A note be included in association with <i>Table 2 Strategic Planning and Non-mandatory Exhibition Timeframes</i>:</p> <p>For other Council and policy documents with no legislative requirements e.g. master plans refer to Community Engagement Matrix on Page 16 & 17.</p>

Submission Issue	Considerations	Action / Recommendation
Amended mandatory exhibition timeframes for designated development and Part 5 Applications requiring EIS	<p>The Department of Planning, Industry and Environment have identified an inconsistency between mandatory exhibition dates within different sections of the EP&A Act and Regs.</p> <p>The EP&A Act (Cl 5.8) mandates a 30 days exhibition period for Part 5 applications requiring an EIS and the EP&A Regs (Cl 78 (2)) mandates a 30 days for Designated Development. This is inconsistent with EP&A Act Schedule 1 Community Participation Requirements which mandates 28 days for both of these development types. The DPIE have indicated this legislative inconsistency is currently being corrected and that the CE&PP mandatory timeframes for both of these development types should be nominated at 28 days.</p>	Recommendation: Amend the mandatory exhibition timeframes for designated development and Part 5 applications requiring an EIS from 30 days to 28 days.
Document editing	The revised CE&PP has included a general editing of text and diagrams throughout the documents to make corrections, refine and clarify intent as well as improve readability.	Recommendation: Accept multiple editorial, correction and clarification amendments.

Current Community Engagement Strategy

The current Community Engagement Strategy has been incorporated into the draft CE&PP and as such it will be superseded by the CE&PP following adoption by Council.

Under the *Local Government Act 1993* there is no formal statutory requirement to repeal or supersede the community engagement strategy.

Current Tweed Development Control Plan 2008 Section A11 – Public Notification

The current *Tweed Development Control Plan 2008 Section A11 – Public Notification* (DCP A11) has been integrated into the revised CE&PP with relevant content updated and as such will no longer be required.

In accordance with the requirements of the EP&A Regulation 2000 Section 23 a notice of intent to repeal DCP A11 and the reasons for the repeal was placed in the Tweed Link Issue 1127 on 29 October 2019.

Subject to adoption by Council, DCP A11 will be formally repealed, by notice in a local paper (the Tweed Link) upon the commencement of the CE&PP.

OPTIONS:

1. The Community Engagement and Participation Plan, as amended by this report, be endorsed by Council and forwarded to the Department of Planning, Infrastructure and Environment for publication on the NSW Planning Portal as required by S2.24 of *the Environmental Planning and Assessment Act, 1979*,
2. Council does not endorse and adopt the revised plan and notification of repealing the DCP 2008 Section A11 and/or defers for a further workshop. In taking this action Council are aware the Plan will not be able to be completed by the NSW DPIE timeframe 1 December and the basic standard notification and timeframe requirements of Schedule 1 of the EP&A Act will apply.

Option 1 is recommended to meet the statutory requirements.

CONCLUSION:

Adoption of the plan will improve Council's community engagement processes by providing a clear framework on when Council consults, how Council consults and who Council consults with. By meeting the *Community Participation Plan* statutory requirements under the EP&A Act and integrating the existing *DCP A11 – Public Notification* into one document, the CE&PP provides a greater degree of transparency and information accessibility for the community as well as planning and industry professionals in relation to the different planning functions.

Despite the limited attendance across the three community conversation sessions, feedback received during those sessions and the community stakeholder forum, in addition to written submissions, provided valued and considered contributions. This consultation process has informed minor amendments to the revised plan. These amendments do not significantly alter the intent and meaning of the CE&PP. As such is the CE&PP, as amended, is now recommended for adoption.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Council has committed a staff member for a period of 12 months to assist with the development of Community Participation Plan, Local Strategic Planning Statement and other strategic planning and urban design projects. Ongoing consultation and engagement will come at a cost to ratepayers which is not funded through the development application process.

c. Legal:

Community Participation Plans (CPPs) are a requirement under the *Environmental Planning and Assessment Act 1979 (the Act)*. A *Community Engagement Strategy* is a requirement under the *Local Government Act 1993*. A table in the appendix of the draft Community Engagement and Participation Plan addresses the requirements of both pieces of legislation and identifies where these have been addressed in the document. No legal advice was required for this project.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1.

Community Engagement and Participation Plan 2019-2024
(ECM 6147345)
