

Department of Planning and Environment

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# Community consultative committee guideline

State significant projects

June 2023



# Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging. Through thoughtful and collaborative approaches to our work, we seek to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Community consultative committee guideline

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## Acknowledgements

This version includes updates following the department's 2022 review of the guideline, incorporating feedback from the department's assessment teams, chairpersons to community consultative committees and committee members.

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# 1 Introduction

State significant projects are large, complex projects that may have major economic, social and environmental impacts over a long time. The NSW Department of Planning and Environment (the department) requires proponents to consult widely with the community, council and stakeholder groups at all stages of these projects.

Requirements for community engagement are set out in the department's *Undertaking Engagement Guidelines for State Significant Projects and Social Impact Assessment Guideline for State Significant Projects*. Proponents should use a range of tools and techniques when engaging with the community, tailoring these to reflect the scale and nature of the project, as well as its potential impacts.

One such tool is a community consultative committee. This is an independently chaired forum for a proponent, community representatives, stakeholder groups and councils to discuss matters about particular State significant projects.

The conditions of consent or approval for a project<sup>1</sup> under the *Environmental Planning and Assessment Act 1979* (EP&A Act) can require the proponent to set up a community consultative committee. This helps ensure the community and stakeholder groups:

- are engaged regularly through the delivery and operational phases of the project
- are kept informed of the status of projects, any initiatives and proponent performance
- are consulted on the development of projects, management plans and proposed changes to approved projects
- can give feedback to proponents on any issues with the operations of a project or opportunities to avoid, minimise and/or manage potential impacts.

The department will make a recommendation to the decision-maker about when a committee should be set up after considering:

- the scale and nature of the project and its potential impacts
- the level of public interest in the project
- the proponent's community engagement strategy
- if a committee would complement other engagement initiatives.

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<sup>1</sup> In the past, community consultative committees were sometimes established at the pre-approval stage. Following this updated guideline, community consultative committees will only be established after the project has been approved.

This guideline:

- explains the scope and purpose of community consultative committees
- sets out the roles and responsibilities of committee members
- establishes effective operating procedures.

The guideline applies to all community consultative committees set up for State significant projects. The department will review it every 5 years.

## 2 Committee purpose

A community consultative committee is not a decision-making or regulatory body; it performs an advisory and consultative role. The NSW Government remains responsible for ensuring proponents comply with any statutory obligations.

The purpose of the committee is to:

- establish good working relationships and encourage the proponent, committee members and other relevant stakeholders to share information
- allow the proponent to seek feedback from community representatives, stakeholder groups and councils or respond to project-related matters
- give community representatives, stakeholder groups and councils a forum to ask for information or give feedback on a project.

Matters that are typically discussed at committee meetings include (but are not limited to):

- community concerns and the resolution of community complaints
- the implementation of any conditions of approval or consent and management plans
- any proposed amendments or modifications to projects
- the results of any monitoring, annual reviews or independent audits.

Community consultative committees are particularly beneficial for engagement over a longer period (for example, the construction, operation and/or rehabilitation stages of a project).

For linear infrastructure projects such as major road or rail projects, multiple committees that cover the different locations may be beneficial.

# 3 Members

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## 3.1 Membership of the committee

The committee will comprise:

- an independent chairperson
- up to 7 (in total) community and stakeholder group representatives
- a representative from each relevant council
- up to 3 representatives appointed by the proponent, including the person responsible for environmental management of the project.

### Independent chairperson

The chairperson manages the operation of the committee and facilitates a constructive forum for community representatives, stakeholder groups, councils and the proponent to discuss project matters.

A chairperson is expected to:

- be independent and impartial
- act as the key contact between the committee and the department
- give all members an opportunity to share their views
- support constructive discussion
- explain procedural requirements so that members understand their roles and responsibilities
- help to resolve disagreements or differences of opinion between members fairly and transparently
- provide secretariat services for the management and administration of the committee (see section 4.2)
- declare any relevant interests
- follow the committee's code of conduct.

### Community and stakeholder group representatives

Community representatives are the people who live, work or own land in the area and are affected by the relevant State significant project. They are appointed as individuals.

Stakeholder group representatives are from groups or organisations that have an interest in the project.

Community representatives should:

- be current residents, workers, or landowners affected by the project
- have a reasonable understanding of the project and related issues of concern
- be able to represent and communicate the interests of the affected community
- declare if they are a member of a stakeholder group.

Similarly, stakeholder group representatives should:

- be a member of a stakeholder group with a demonstrated interest in the project, such as an industry, community or environmental group, a registered Aboriginal party or local Aboriginal land council
- have knowledge and awareness of the project and potential issues of concern
- be able to represent and communicate the interests of the group they represent.

Community and stakeholder group representatives must:

- not be an employee or contractor of the proponent<sup>2</sup>
- declare any relevant interests
- adhere to the committee's code of conduct.

If a representative no longer meets the above criteria, their suitability for membership should be re-assessed and they may be replaced. The chairperson should be informed of any changes as soon as possible.

## Proponent and council representatives

The proponent and council(s) will nominate their representatives and advise the chairperson in writing. These representatives must:

- have knowledge of the project and community concerns
- have authority to speak on behalf of their organisation
- declare any relevant interests as well as their employment status.
- adhere to the committee's code of conduct.

## Alternate representatives

Alternate representatives are committee members who attend a committee meeting when a regular member is unavailable. Alternate representatives may stand in for community representatives, or for stakeholder groups, the proponent and councils.

Community or stakeholder group representatives cannot choose their own alternate representatives. If a community or stakeholder group representative cannot attend a meeting, they must notify the chairperson, who may consider inviting an appointed alternate representative.

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<sup>2</sup> Discretion can be applied where it can be shown that the benefit to the community or stakeholder group outweighs any potential interest. For example, a local Aboriginal group or individual may be contracted to assess Aboriginal heritage, while also being directly affected by the project.

If a council or proponent representative cannot attend, they should notify the chairperson and nominate a relevant alternate representative to attend.

If the chairperson cannot attend a committee meeting, an alternative time should be agreed.

The use of alternate representatives should be limited. Any alternate representatives must sign the committee members' code of conduct and declaration of interest form before attending their first meeting.

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## 3.2 Appointing members

### Appointing a chairperson

The department recruits chairpersons to a pool of suitable candidates that is updated every 3 years. Members of this pool have:

- experience in community relations, facilitation, mediation and public advocacy
- an understanding of the regulatory requirements for State significant projects and the issues associated with these projects
- a proven track record in convening and managing stakeholder committees with independence.

A list of the members of this pool and their credentials are available on the [department's website](#).

The Planning Secretary appoints a chairperson from the pool to each committee after considering their experience, availability and any other relevant factors.

Proponents must pay the chairperson's fees, as well as the fees of any note-taker required.

### Appointing community or stakeholder representatives

After consulting the chairperson, the proponent will publish a request for expressions of interest for community and stakeholder representatives. The expression of interest request should outline the committee's purpose and scope, as well as the expectations of members.

The proponent can advertise requests for expressions of interest through any of the following channels, with the agreement of the chairperson:

- council websites or social media platforms
- the project website
- local businesses or business forums
- community or sporting centres
- local newspapers
- targeted letter box drops
- networks named in the engagement strategy.

The expression of interest request must be open for a minimum of 28 days to allow potential members to apply. Interested candidates will need to explain how they meet the selection criteria listed on the nomination form, which is available on the [department's website](#).

Within 2 weeks of the deadline for expressions of interest, the chairperson must:

- review the applications against the selection criteria
- send a copy of all the applications to the department
- recommend suitable community and stakeholder group representatives to the department, along with any recommended alternate representatives.

Within 4 weeks of receiving these recommendations, the Planning Secretary will appoint the community and stakeholder group representatives. The department will notify them of their appointment. The representatives must return completed declaration of interests and code of conduct forms to the chairperson. The department will advise the chairperson and the proponent of the appointments. We will notify unsuccessful candidates that they have not been appointed.



Figure 1. Selection process for community and stakeholder group representatives

### 3.3 Replacing members

#### Replacing the chairperson

The Planning Secretary will appoint a new chairperson from the pool of suitable candidates if the chairperson resigns or is found to be unsuitable following a departmental review.

The department can review the chairperson’s performance at any time. If either the proponent or the majority of committee members (excluding the proponent representatives) have concerns about the conduct or performance of the chairperson, they may refer the matter to the department. The department will examine the concerns and decide what action should be taken, if any. The Planning Secretary will make any decision to replace a chairperson and that decision is final.

A replacement chairperson should be appointed within 4 weeks of the department receiving the chairperson’s notice of resignation or the Planning Secretary’s decision to replace them.

## Replacing committee members

The chairperson may recommend a replacement if a community or stakeholder group representative:

- resigns, or
- no longer meets the selection criteria, or
- is found to be unsuitable following a departmental review.

The department can review a committee member's performance at any time. For example, a review may be done if the representative:

- is not attending meetings, or
- has breached the code of conduct, or
- is found to have given false or misleading information in their application.

A replacement community representative may be an existing alternate community representative or someone from a later nomination process.

A departing stakeholder group representative can be replaced by another suitable representative from within their organisation. If no suitable representative is available, a new community or stakeholder group representative may be recommended.

The proponent and council(s) can nominate new representatives if needed. The chairperson may also ask the council or proponent to nominate a new representative if their appointed representative is not attending meetings, or if there has been a serious or repeated breaches of the code of conduct.

Any newly appointed representatives must sign the committee members code of conduct and declaration of interest form before attending their first meeting.

# 4 Committee operations

The department has prepared a toolkit of resources to support committee operations. These resources form part of this guideline and are listed in the **Appendix**.

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## 4.1 Terms of reference

The procedures and processes for how each committee will operate will be set out in the **terms of reference** that the committee prepares and approves. The department has prepared a terms of reference template that sets out standard processes and suggested timeframes for operational matters (including meeting frequencies and the distribution of draft agendas and minutes).

Committees must use the template to outline:

- committee purpose and scope
- membership of the committee
- procedures for meeting operations including frequency, format, agendas, papers, minute taking, and extraordinary meetings
- procedures for site visits
- the publication of materials related to the committee
- the production of an annual report
- review processes.

The committee must discuss the terms of reference and the members must confirm them annually, although they can be reviewed at any point by request or when the conditions of consent or approval are modified.

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## 4.2 Role of the chairperson

The chairperson is responsible for the management and administration of the committee, including:

- setting suitable meeting times and providing meeting agendas
- chairing meetings consistently with the terms of reference and code of conduct
- facilitating constructive communication between members
- approving the minutes for publication
- reporting annually to the department.

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## 4.3 Frequency, timing and location of meetings

The frequency, timing and location of committee meetings (including any extraordinary meetings) may vary depending on the stage of the project. They should be consistent with any requirements set out by the department and be agreed in the terms of reference.

The proponent must provide suitable facilities for committee meetings. The meetings must be held at a time and place generally convenient and safe for all committee members.

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## 4.4 Agenda and meeting minutes

Committee proceedings must align with the committee's terms of reference and code of conduct.

Committee members must have the opportunity for input into meeting agendas. They can suggest agenda items before or during a meeting if the matter is within the committee's terms of reference. This may include requesting a technical expert to present to the committee, through the chairperson.

The proponent must properly consider and respond to issues raised by committee members. The chairperson is responsible for facilitating this process.

Meeting minutes (taken by the chairperson or identified note-taker) should be reviewed by committee members and approved by the chairperson. Both the agenda and minutes must be published on the proponent's website (see section 6).

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## 4.5 Site visits

The committee may request project site visits together with meetings, or at other convenient times, as needed. Any site-specific work health and safety practices must be complied with, and the proponent is responsible for providing any necessary personal protective equipment.

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## 4.6 Joint committee meetings

In areas with a high concentration of State significant projects or where 2 or more projects contribute to cumulative impacts, joint community consultative committee meetings may be appropriate to discuss issues of common interest. These meetings can be organised by the chairpersons (who will agree which will facilitate the meeting), with the agreement of all relevant proponents.

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## 4.7 Attendance by non-committee members

The department may send a representative to attend committee meetings at its discretion.

The chairperson may invite non-committee members to attend meetings as observers or to give advice. This may include:

- representatives of the department other state agencies
- technical experts or consultants
- members of the public.

Non-committee members cannot take part in the business of a meeting unless the chairperson invites them to do so.

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## 4.8 External communications

The department encourages committee members to discuss concerns and share helpful information about the project with the wider community, including stakeholder groups. However, any information or documents provided on a confidential basis must not be discussed or shared outside of the committee.

The committee may decide to release statements or other information to the media or adopt other approaches to publicise information. Only the chairperson may speak publicly to the media on behalf of the committee.

Individual committee members may make comments to the media or in public forums on behalf of themselves or their stakeholder groups, but not on behalf of the committee.

If the public asks the committee to include items on its agenda, these requests should be directed to the chairperson.

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## 4.9 Committee training

The chairperson should ensure new members receive suitable induction training to equip them for their role on the committee. The committee may seek funding or other assistance from the proponent for training members or developing the skills of the committee. This may include training in:

- the NSW planning system relating to State significant projects
- communications and conflict resolution
- environmental management and community relations.

The proponent should support any reasonable requests for training.

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## 4.10 Committee funding and remuneration

The committee may seek annual or one-off funding from the proponent to help it perform its functions.

While community and stakeholder group representatives, as volunteers, are not eligible to receive sitting fees from the proponent, they may seek reimbursement for out-of-pocket expenses (such as personal protective equipment for a site visit). The proponent should support any reasonable requests for funding or expenses, where representatives give appropriate reasons and evidence of the costs. If the proponent makes a payment, the recipient should declare this as an interest.

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## 4.11 Declaration of interests

All committee members must sign a declaration of interest form (see toolkit of supporting material) before they join the committee and keep this up to date. Committee members will have an opportunity to declare any new interests, or interests relevant to the agenda, at the start of each committee meeting.

The declarations include any pecuniary or other interest that may affect committee operations.

Examples of pecuniary or other interests include:

- holding a private contract with the proponent
- holding voluntary acquisition or mitigation rights under the proponent's approval or consent
- receiving sitting fees or payments for personal expenses from the proponent
- if the member represents a stakeholder group, the stakeholder group receiving funding or a grant from the proponent.

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## 4.12 Conflicts of interest

A chairperson should advise the department as soon as possible of any potential or actual conflict of interest that may affect their ability to fulfil their role on the committee.

Committee members should notify the chairperson as soon as possible of any change of interest that may affect their ability to fulfil their role on the committee.

The chairperson may decide that an interest is significant enough conflict that a member should withdraw from discussion on a particular issue.

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## 4.13 Conduct of committee members

Chairpersons and all other appointed committee members must sign the code of conduct agreement during the appointment process and before they take part in a committee meeting. Members must confirm acceptance of the code of conduct on an annual basis.

The chairperson must notify relevant members if they witness or become aware of any alleged breach or perceived breach of the code of conduct. The chairperson may give the relevant members a warning. If the alleged breach is severe, the chairperson may refer it to the department for review.

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## 4.14 Dispute resolution

Although consensus is not required, the chairperson should aim to resolve any disputes between committee members. Committee members should report issues to the chairperson in the first instance.

If the chairperson cannot resolve a dispute, they may refer it to the department.

If the dispute or issue is about the chairperson, and cannot be resolved locally, a committee member may make a complaint to the department for further investigation via the [department's complaints procedure](#).

The department's decision on any disputes or complaints it receives is final.

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## 4.15 Annual report

The chairperson for each committee must complete an annual report on its activities and submit it to the department for review before publishing it (see section 6 of this guideline).

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## 4.16 Review of effectiveness

The annual report should include a review of the committee's performance and effectiveness over the previous 12 months. The review should consider:

- compliance with this guideline and the committee's terms of reference
- the completion of actions
- if there are any matters affecting performance and effectiveness.

If committee members, including the chairperson, have concerns about the committee's overall performance or effectiveness, the chairperson may refer the matter to the department for review.

If a committee is not functioning effectively, the department may decide to close or reconstitute the committee.

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## 4.17 Closure of a committee

The department can review a committee's performance and effectiveness at any time. The department may decide to close or reconstitute the committee if:

- the committee's terms of reference have been fulfilled and it is no longer required (subject to any relevant condition of approval or consent), or
- the committee is not functioning effectively.

The department will make any decision on closure in consultation with the chairperson and all other committee members.

The department will write to the chairperson and the other committee members to advise them of the decision. Any decision made by the department will be final.

# 5 Responsibilities of the proponent

The proponent must give the committee prompt and accurate reports and information on the project, including:

- the status of the project
- existing operations
- environmental performance
- any complaints relating to the project
- investigations (both internal and by relevant regulators)
- community relations initiatives the proponent has conducted.

This does not include information of a financial or commercial nature.

The proponent must also give the committee current or relevant copies of:

- the project's approval or consent and other relevant documents, including management plans
- results of environmental monitoring
- annual review or compliance reports
- audit reports
- reports on community concerns or complaints and the proponent's response
- any other information requested by the committee, chairperson or department that is not financial or commercial in nature.

The proponent can supply these documents electronically, giving hard copies to committee members on request.

The proponent should consult with the committee before it submits any relevant applications or documentation to the department for approval or consent, including any post-determination documentation such as management plans. The proponent should notify committee members when these applications are lodged.

The proponent must respond to any questions or advice from the committee about the project's environmental performance, complaints, investigations and community relations. These responses should be given to members within 28 days of a committee meeting, unless the meeting minutes specify otherwise.

The proponent should organise site visits if requested by the chairperson. The proponent must also ensure any work health and safety procedures are complied with during a site visit.

# 6 Publication of information

The following committee information must be published on a project web page set up and maintained by the proponent, which the public can access easily. The following information should be published:

- the name of the chairperson and all other appointed committee members
- meeting agendas and minutes
- if the committee has been dissolved or reconstituted
- if there has previously been a committee for the same project
- any other information agreed by the committee and/or department.

The department will publish annual reports on its website.

# 7 Transitional arrangements

This guideline applies to all new and existing committees.

Existing committees must prepare and approve terms of reference in accordance with the guideline and all committee members must sign the updated code of conduct:

- within 6 months of the guideline being published, or
- before the next committee meeting, if it is scheduled to occur more than 6 months after the guideline is published.

Subsequent committee processes and procedures, such as recruiting replacement committee members or preparing annual reports, should be done in accordance with the guideline.

# 8 Glossary

**Chairperson** – an independent person appointed by the Planning Secretary to manage the operations of the committee.

**Committee member/s** – all people appointed to the committee including chairpersons, community and stakeholder group representatives, as well as proponent and council representatives.

**Community** – a group of people living or working in a specific geographical area or with mutual interests who could be affected by a State significant project.

**Community representative** – an individual, appointed by the Planning Secretary, to take part in the committee.

**Council representative** – a representative, appointed by the local council, to take part in the committee.

**Non-pecuniary interest** – a person’s private or personal interest that does not involve a financial gain or loss, or a potential one. The interest may come from family or personal relationships, or involvement in community, social or other cultural groups, that may include a financial or non-financial interest. It may also include the receipt of gifts, benefits or hospitality from the proponent.

**Pecuniary interest** - an interest a person has in a matter because of a reasonable likelihood or expectation of financial gain or loss to the person. Money does not have to change hands to be a pecuniary interest.

**Planning Secretary** – the Secretary of the NSW Department of Planning and Environment or a nominated representative, including the executive directors and directors in development assessment.

**Proponent** – the person or entity acting on an approval for a State significant project. The *Environmental Planning and Assessment Act 1979* uses the terms ‘applicant’ for State significant development and ‘proponent’ for State significant infrastructure. In this guideline, ‘proponent’ covers both.

**Stakeholder group** – a group or organisation including an industry, community, environmental or Aboriginal group that represents several people with a common interest in a State significant project.

**Stakeholder group representative** – a representative of a specific stakeholder group, appointed by the Planning Secretary, to take part in the committee.

**State significant project(s)** - a project defined as State significant development or State significant infrastructure under the *Environmental Planning & Assessment Act 1979*.

# Appendix – toolkit of supporting material

Toolkit of supporting material:

1. Code of conduct for chairpersons
2. Code of conduct for committee members (excluding chairs)
3. Declaration of interest form
4. Terms of reference (template)
5. Local community representative nomination form
6. Stakeholder representative nomination form